

## **EXHIBIT D**

# Quinault Indian Nation



## Title 61

### Natural Resource Management

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## TITLE 61

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TITLE 61

NATURAL RESOURCE MANAGEMENT

61.01.010 Findings

(a) From time immemorial, the Quinault Indian Nation has conserved and protected the invaluable wildlife and natural resources subject to its jurisdiction from waste and excessive exploitation, and has been proud of the great natural beauty of lands and water now included within the boundaries of the Quinault Reservation.

(b) The Quinault Business Committee, as a governing body of the Quinault Indian Nation, hereby finds and declares that the forest resources within the Reservation are of primary importance to the economic and esthetic well-being of the Quinault Reservation and its inhabitants and the surrounding community; that a properly managed forest products industry is of prime

importance; that it is in the tribal and the public interest that the forest resources be managed consistently with the best available knowledge and technology; that such proper management in the past has been lacking; and that the proper care of the Reservation resources is important to fishery, water, air, scenic beauty and other natural resources of the Reservation.

- (c) The Business Committee finds that minor forest products are an important Reservation resource; that they provide jobs and income for Reservation residents; that current minor forest products harvesting methods are often very destructive of forest regeneration, watersheds and other natural resources; that minor forest products are regularly stolen from Reservation lands and landowners; that such thefts deprive the Reservation economy of jobs and income; and that this Title and regulations adopted pursuant to this Title are

necessary and appropriate to protect minor forest products, other natural resources and Reservation landowners.

(d) The Business Committee of the Quinault Indian Nation finds that activities in and around streams or utilization of ground waters causing reductions or changes in the courses of streams or natural stream flows or the addition of materials or substances to waters of the Reservation or the diversion or blockage of streams are likely to detrimentally affect the treaty protected fishery resources of the Reservation. The Quinault Reservation was established specifically to provide protection to the fisheries resources upon which the people of the Reservation depended for their livelihood. The people of the Reservation still depend on those resources and this Title is enacted to protect them and their habitat.

(e) The Business Committee further finds and



declares that these and other consideration will be furthered by the passage and adoption of this Title.

(f) The policies and goals of this Title include, but are not limited to:

(1) Protection, enhancement and perpetuation of the timber growing capacity of Reservation lands and the requirements for minimum reforestation that will reasonably utilize the timber growing capacity of these forest lands and ensure uninterrupted, perpetual timber harvest opportunities.

(2) Recognition of the need to stabilize and balance the ecosystems of the Reservation by reasonable long-range controls on the timing of forest harvest activities within major drainages.

(3) Protection of cleanliness of the air of the Reservation and the productivity and purity of its waters.

(4) Promotion of efficiency by permitting maximum operating freedom consistent with the other policies and goals of this Title.

(5) Consideration of land use planning goals contained in tribal zoning regulations.

(6) Recognition and achievement of the objectives set out in the Code of Federal Regulations at 25 CFR 163, especially as they pertain to Indian self-determination, sustained yield and conservation.

(g) The Business Committee declares its intent to create and maintain a comprehensive system of natural resource practice regulations to assure:

(1) An ecologically balanced environment that is compatible with the desired life style of Reservation residents.

(2) Protection to waters, forest soils and other Reservation resources by utilizing

all reasonable methods of technology in conducting forest practices.

- (3) Protection and enhancement of Reservation fisheries resources.
- (4) Protection and enhancement of wildlife, Coastal Districts, and locations having traditional tribal significance.
- (5) Reasonable standards of operation for harvest activities and other forest land activities associated with timber and minor forest product harvests.
- (6) Adequate regeneration with acceptable commercial species on all harvested forest lands.
- (7) Recognition of both the Reservation and private interests in the profitable growth and harvesting of timber.
- (8) Reasonable standards for operations and activities occurring in or near any stream, lake, river, marshes, springs, groundwater, tidal area, pond, slough,



wetland or other body of water.

61.02.010 Jurisdiction of the Quinault Indian Nation

This Title shall be applicable to all persons acting within the boundaries of the Quinault Indian Reservation.

61.03.010 Definitions

(a) Application shall mean the natural resource practice or minor forest product work permit application. Approved Application shall mean the legal authority to work, conduct activities, or conduct projects subject to the terms and conditions of the approval and subject to the rules and regulations adopted pursuant to this Title and the laws of the Quinault Indian Nation.

(b) Bureau of Indian Affairs (BIA) means the agency of the United States Department of the Interior charged with carrying out the United States' trust responsibilities and policies in relation to Indian tribes.

(c) Business Committee shall mean the Business

Committee of the Quinault Indian Nation, as defined in the Constitution of the Quinault Indian Nation.

- (d) Cedar means shakes, shingles, shake and shingle bolts or blocks, cedar fence posts or poles, cedar hop poles, cedar pickets or any other cedar logs when harvested for manufacture into shakes, shingles or any other products other than lumber.
- (e) Christmas Trees means any trees commonly known as Christmas trees of any species, not including logs, poles or other forest products from which substantially all of the limbs have been removed.
- (f) Contiguous shall mean land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right of way shall be considered contiguous.
- (g) Conversion to a Use Other than Commercial Timber Operations shall mean a bona fide

conversion to an active use which is incompatible with timber growing.

(h) Court means the Quinault Tribal Court.

(i) Cutter means any person who cuts, digs, breaks or otherwise removes any minor forest products. An operator may be a cutter.

(j) Minor Forest Product Work Permit means the documentation required by this Title, or regulations adopted pursuant to this Title, of a person's authorization to carry on activities as a cutter.

(k) Department shall mean the Quinault Department of Natural Resources. Director shall mean the Director of the Department of Natural Resources or his or her designated agent.

(l) Designated Agent means a person designated by an operator to act as his agent and to supervise a forest products operation.

(m) Forest Land shall mean all Reservation land which is capable of supporting a merchantable stand of timber and is not being actively used



for a use which is incompatible with timber growing.

(n) Forest Landowner shall mean any person in actual or constructive control of forest land, whether such control is based on legal title or equitable title or some combination thereof or on any interest that entitles the holder to sell or otherwise dispose of any or all the timber on such land in any manner, provided that, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition unless such lessee or other person has the right to sell or otherwise dispose of any or all the timber located on such forest land.

(o) Natural Resource Practice shall mean any activity conducted on or directly pertaining to forest lands, tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater, wetlands, marshes and any other body of water,

including but not limited to:

- (1) Road and trail construction.
- (2) Harvesting, final and intermediate.
- (3) Pre-commercial thinning.
- (4) Reforestation.
- (5) Fertilization.
- (6) Prevention and suppression of disease and insect damage.
- (7) Salvage of trees and down logs.
- (8) Brush control.
- (9) Gravel and mineral extraction.
- (10) Any activity with the potential to effect tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater's, wetlands, marshes and any other body of water

(p) Natural Resource Practice Regulations/Regulations shall mean any rules promulgated and authorized pursuant to this Title.

(q) Forest Product means timber or minor forest

product as defined in this Title.

- (r) General Council shall mean the General Council of the Quinault Indian Nation, as defined by the Constitution of the Quinault Indian Nation.
- (s) Hauling Permit means the documentation required by this Title of a person's authority to haul minor forest products.
- (t) Hydraulic Project means any activity in or near or potentially effecting tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwaters, wetlands, marshes and any other body of water
- (u) Operator shall mean any person engaging in forest practices except an employee with wages as his sole compensation.
- (v) Intermittent Stream shall mean a stream or stream segment that normally goes dry for a portion of any calendar year.
- (w) Minor Forest Product means cedar, Christmas trees, foliage, bark, firewood, other wood

products, seeds, cones, beargrass, mushrooms and seedlings.

(x) Operator means the documentation required by this Title of a person's authority to engage in activities as a forest products operator.

(y) Person shall mean any individual, partnership, private, public or municipal corporation, county, state, local, federal or tribal governmental entity or association of individuals of whatever nature.

(z) Public Roads for purposes of this Title only, shall mean that portion or the whole of the following roads and streets within the boundaries of the Quinault Indian Reservations: U.S. Highway 101, State Highway 109, the Moclips Highway (Cook Creek Road), and while the vehicle traveling it is properly licensed by the Tribe, Cape Elizabeth Road. All other roads and streets within the boundaries of the Quinault Indian Reservation for purposes of this Title are declared

private and/or tribal.

(aa) Quinault Indian Reservation/Reservation shall mean all lands and waters included or intended to be included within the boundaries of the Quinault Indian Reservation as set out in the Executive Order of the President of the United States of November 4, 1873 (I Kappler 923), or Public Law 100-638, 102 Stat. 3327.

(bb) Reservation Resource shall mean land, water, trees and other vegetation, fish and wildlife and capital improvement within the exterior boundaries of the Quinault Indian Reservation.

(cc) Slash shall mean pieces of woody material containing more than 3 cubic feet resulting from natural resource practices.

(dd) Stocking/Acceptable Stocking shall mean the minimum number of well distributed, vigorous seedlings, saplings or trees per acre of approved species, all as shall be defined and determined by the Quinault Department of Natural Resources and contained in the natural

resource practice regulations promulgated pursuant to this Title.

(ee) Stumpage means the fee or rate paid to land-owners for the removal of minor forest products.

(ff) Timber shall mean forest trees, standing or down, of commercial species, including Christmas trees.

(gg) Timber Owner shall mean any person having any part or all of the legal interest in timber, including a contract purchaser.

(hh) Unlawful Harvest means any unauthorized cutting, harvesting or removal of any timber or forest product in the absence of excusable mistake. For this purpose, excusable mistake shall not include the failure to properly survey or make property lines or any failure to comply with the terms of this Title.

(ii) Wildlife shall mean any animal, fish, shellfish, aquatic animal or bird, normally not domesticated, which permanently or

periodically inhabits Reservation lands.

6.04

Regulations

61.04.010

Natural Resource Management Regulations

Promulgation - Reviews - Revisions

- (a) Where necessary to accomplish the policies and goals stated in this Title and to implement the provisions of this Title, the Department shall promulgate Natural Resource practice rules and regulations that will, along with this Title, become the rules governing the conduct of any forest product or minor forest product activity or operation or any hydraulic project occurring within the boundaries of the Quinault Indian Reservation. The regulations shall establish the minimum standards and guidelines for Reservation wildlife protection and the necessary administrative procedures to achieve the policies and goals of this Title and may include reasonable application fees.
- (b) The regulations shall be administered and enforced by the Department or Quinault Indian

Nation law enforcement officers, except as otherwise provide in this Title. Enforcement shall be exclusively by civil proceedings.

(c) The regulations adopted by the Department shall be based on the factors that significantly affect the present and future condition of Reservation forest land, wildlife and aquatic habitat.

(d) In promulgating these regulations, the Department shall consider recommendations of persons and agencies of expertise in the fields of forestry, land use, fisheries and other fields related to natural resource practices. The Department shall take into consideration other tribal, federal and applicable state laws and shall provide for cooperation in their enforcement.

(e) The regulations shall be continuously reviewed and may be revised from time to time by the Department as technical expertise and Reservation conditions permit. Prior to any



such revisions, the Department shall seek and evaluate recommendations of persons and agencies with expertise or interest in the subject matters.

61.04.020 Rules Establishing Classes of Natural Resource Practices - Applications for Classes of Natural Resource Practices - Approval or Disapproval

- (a) The Department shall establish, by rule, which natural resource practices shall be included in each of the following classes:

Class I: Minimal natural resource practices that have no potential for damaging a Reservation resource that require an application which must be approved or disapproved by the Department within 7 days.

Class II: Natural resource practices that have little potential for damage to a Reservation resource that require an application which must be approved or

disapproved within 7 days. Class II shall not

include practices:

(1) On lands being or declared to be converted to another use.

(2) On lands identified in this Section or in the regulations as lands requiring a Class IV natural resource practice application.

Class III: Natural resource practices that have a significant potential for damage to a Reservation resource that require an application which must be approved or disapproved by the Department within 14 calendar days after receipt by the department.

Class III shall not include practices:

(1) On lands being or declared to be converted to another use.

(2) On lands identified in this Section or in the regulations as lands requiring a Class IV natural resource practice

application:

- (3) Identified in this Section or in the regulations as Class I, II or IV natural resource practices.

Class IV: Natural resource practices having a potential for major impact on critical Reservation resources that require an application which must be approved or disapproved by the Department within 30 calendar days after receipt by the Department unless the Department determines that a detailed environmental statement must be made, in which case the application must be approved or disapproved within 60 days, unless the Department promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. If the Department determines that a detailed environmental statement is required, within 10 calendar days

of the receipt of the application, it shall so notify the applicant, at least 10 days prior to promulgation of a formal order by the Department, the applicant shall be given written notice that the Department is requesting such extension. When a Class IV application involves lands to be converted to another use, the application shall be approved or disapproved within 14 business days from transmittal to the Planning Commission.

(b) No natural resource practice shall be commenced or continued after the enactment of this Title unless the Department has received and approved an application containing all information required by this Title and the rules and regulations adopted pursuant to this Title, as now or hereafter amended, provided:

(1) That any person commencing a Class I, II or Class III natural resource practice prior to the enactment of this Title may continue such practice for a period of 28

calendar days if such person has submitted an application, as appropriate, to the Department within 14 calendar days after the enactment of this Title.

- (2) That any person commencing a Class IV practice prior to the enactment of this Title may continue such practice for a period of 44 calendar days if such person has submitted an application to the Department within 14 calendar days after the enactment of this Title.
- (c) If an application is delivered in person to the Department, the Department shall immediately provide a dated receipt thereof. In all cases, the Department shall immediately mail a dated receipt to the operator.
- (d) Natural resource practices shall be conducted in accordance with the natural resource practice rules, regulations, orders and directives as authorized by this Title or the natural resource practice regulations and the

terms and conditions of any approved applications.

(e) The Department shall notify the applicant, in writing, of either its approval or disapproval of the application and the specific manner in which the application fails to comply with the provisions of this Title or the natural resource practice rules and regulations.

(f) If seasonal field conditions prevent the Department from being able to evaluate the application, the Department shall issue an approval conditional upon further review within 60 days.

(g) If the Department fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved, and the operation may be commenced, provided that, this provision shall not apply where:

(1) The application involves lands to be

converted where the Planning Commission right of objection is 14 business days, which may be longer than the approval time limit.

- (2) The Department is prohibited from approving the application pursuant to this Title.

61.05 Applications/ Licenses and Permits

61.05.010 Business License Required; Other Applicable Tribal Laws; Compliance Required

- (a) A natural resource practice application shall not be approved unless the person submitting the application has obtained a Quinault Tribal business license. A person applying for an endorsement of a hauling permit, or hauling permit, may not receive such endorsement or permit until the person obtains a Quinault tribal business license, provided that, such license need not be obtained if the hauler is affiliated with an operator who has obtained a Quinault tribal business license, has listed

said hauler on the application and has paid the necessary tax on the hauler.

- (b) A natural resource practice application or application shall not be approved unless the applicant has complied with other applicable tribal laws, and is current on all payments or fines owed to the Quinault Indian Nation or an entity of the Quinault Indian Nation.

61.05.010 Approved Application Required

- (a) It shall be a violation of this Title for a person shall carry on the activities of a forest products operator or conduct an hydraulic project without an approved natural resource practice application.

- (b) A natural resource practice application shall be made to the Department. Such application shall provide the minimum following information:

- (1) The applicant's name and address and acknowledgement that all notices and, in the event a suit is brought against the



applicant by the Department, all pleadings are properly served if mailed to the applicant at the address shown on the application.

- (2) The precise location of the operation.
- (3) The approximate duration of the operation.
- (4) The name of the landowner and resource owner.
- (5) A list of cutters, contractors, employees and/or haulers who will be affiliated with the operation (when appropriate).
- (6) The name of the designated agent (when appropriate).
- (7) Such other information as the Department may this Title or the rules and regulations adopted pursuant to this Title require.

- (c) The Department shall prescribe the form and content of the application and may prescribe modifications to form and content, from time

to time, as conditions warrant. The Department may require such information as it deems necessary to establish legal and operational responsibility, determine natural resource practice methods to be used and identify soil, water and other critical resource circumstances.

(b) At the option of the applicant, the application may be submitted to cover a single natural resource practice or project or any number of activities within reasonable geographic boundaries, as specified by the Department.

(c) The application shall indicate whether any land covered by the application will be converted or is intended to be converted to a use other than commercial timber production within 3 years after completion of the natural resource practice described in it. If the application states that any such land will be or is intended to be so converted:

- (1) The reforestation requirements of this Title and of the natural resource practice regulations shall not apply if the land is, in fact, so converted.
- (2) Completion of such natural resource practice operations shall be deemed conversion of the land to another use.
- (3) If conversion to such other use is not initiated within 3 years after completion of the natural resource practice operations, the reforestation requirements of this Title shall apply and such reforestation shall be completed within 1 additional year.
- (4) The application shall be either signed by the land owner or accompanied by a statement signed by the land owner indicating his intent with respect to conversion and acknowledging that he is familiar with the effects of this paragraph.

- (d) When an approved application authorizes a forest product activity or hydraulic project which has a potential for causing material damage to a Reservation resource, as determined by the Department, the applicant shall, when requested on the approved application, notify the Department 2 days before the commencement of the actual operations.
- (e) Before the operator commences any forest product activity or hydraulic project in a manner or to an extent significantly different from that described in a previously approved application, there shall be submitted to the Department a new application form in the manner set forth in this Section.
- (f) The approval of an application given by the Department shall be effective for a period of 1 year from the date of approval unless the Department specifies a period of time less than one year Renewals may granted at the

discretion of the Department.

(g) Notwithstanding any other provision of this Section, no prior application shall be required for any emergency action necessitated by fire, flood, windstorm, earthquake or other emergency defined by the Department, but the operator shall submit an application, whichever is applicable, to the Department within 48 hours after commencement of such practice.

(h) An approved application for designation as a cutter or for authorization to haul forest products within the Reservation shall be necessary before a permit or endorsement is issued.

(i) No permit, license or contract issued by any agency other than the Department shall be sufficient to meet the requirements of this Title.

61.05.020

Grounds for Denial: Appeal

Where applicable, any one of the following reasons

shall be sufficient grounds for denial of an application:

(a) The applicant is not the real party in interest.

(b) The Department has reasonable cause to believe that the applicant or his designated agent will not be at the site of operation to supervise the operation at least 100% of the working time of the operation.

(c) Fraud or material misrepresentation of fact in the application.

(d) One or more instances of failure of the applicant to comply with the provisions of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.

(e) Issuance of the application will allow more operations to be carried on than the Department can adequately supervise.

(f) The applicant has committed a timber trespass within the last 3 years.

- (g) Failure to provide information required in the application.
- (h) Any of the grounds set forth for the disapproval of an application in the Quinault Tribal Code or the rules and regulations adopted pursuant to this Title.
- (i) The applicant has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.
- (j) The applicant has failed to pay a valid fine, payment or fee due and owing the Quinault Indian Nation or an entity of the Quinault Indian Nation.
- (k) The Department may, in its discretion, waive any of these grounds and approve an application. In such a case, the Department may condition the approval of the application on compliance by the operator with specific conditions set by the Department and related

to the grounds for denial.

(1) An applicant denied approval may appeal the denial in accordance with this Title.

61.05.030 Conditions: Violations

The Department may approve an application subject to specific conditions and terms. Conditions or terms may be altered as appropriate and necessary after approval of the application, upon 24 hour written notice to the operator. Violations of such conditions and terms shall be deemed violations of this Title.

61.05.040 Exemptions

Employees of the Quinault Nation, when conducting tribal business may in the Departments desecration be exempted from obtaining an approved natural resource practice application.

61.05.050 Possession and Display

The operator or his designated agent shall have the approved application or a copy thereof in his possession at all times during which operations are carried on. The operator or his designated agent



shall present the application for inspection on demand from any law enforcement officer, Department employee or BIA enforcement employee.

61.05.060

Fee

The Department may charge a fee for processing an application. The fee shall be in an amount calculated to offset the costs of issuance and enforcement.

61.05.070

Deposit

As a condition of approval of an application, the Department may require the posting of a reasonable deposit. The deposit shall be posted by the applicant. The deposit shall be deposited in an account at a commercial bank in the name of the Quinault Indian Nation and shall be released to the applicant upon satisfactory completion of all conditions contained in the application. In the event that the conditions of the application are not met, the Department may declare, in writing, the forfeiture of all or part of the deposit. Forfeiture of a deposit shall be in addition to any

other remedies allowed under this Title. Return of the deposit shall not be unreasonably delayed by the Department or its agents or employees.

61.05.080 Revocation: Appeal

(a) The Department may revoke an approved application, upon 24 hours written notice to the applicant, for any of the following reasons:

- (1) The existence of any grounds for denial of an application.
- (2) Noncompliance by the operator or the operator's agents, contractors, cutters or employees with any term or condition of the application.
- (3) Conduct of the operation in a manner that violates the Quinault Tribal Code or its regulations.
- (4) Violation by the operator, his employees or agents or contractors of any other applicable law, rule or regulation which reasonably relates to the conduct of the

operation, including but not limited to, use of cutters and haulers who do not have a valid, approved minor forest product work permit or hauling endorsement.

- (b) An operator whose application is revoked may appeal the revocation in accordance with this Title.

61.05.090

Minor Forest Product Work Permit Required:  
Application: Fee: Display

It shall be a violation of this title for any person to engage in the activities of a cutter without having, in his or her possession, a minor forest work permit issued by the Department. The Department shall issue permits to all applicants not subject to grounds for denial and shall do so, in writing, within 15 working days of the application. If the Department fails to approve or deny the application within 15 working days, the application shall be deemed approved, and the cutter may begin working, provided that, this

provision shall not apply where the Department is prohibited from approving the application pursuant to this Title. The Department may charge a fee for the permit in an amount calculated to offset the costs of issuance and administration of the cards. The cutter shall display the permit on demand by any law enforcement officer, Department employee or BIA enforcement employee.

61.05.10

Minor Forest Work Permits - Scope of Authority:  
Renewal, Reapplication

Each permit shall specify the scope of authority of the holder. Such specification may limit the holder to work as a cutter on specified tracts. Whenever a cutter changes his affiliation with an operator, he shall be required to apply for a new permit.

61.05.11

Minor Forest Work Permits - Grounds for Denial or  
Revocation

The Department may deny an application for a permit or may revoke an issued permit, without prior notice, for any of the following reasons:

- (a) The applicant or cutter has no affiliation with an approved operator.
- (b) The applicant or cutter has committed timber trespass within the last 3 years.
- (c) Fraud or material misinformation in the application.
- (d) Violation of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.
- (e) The applicant has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.
- (f) The applicant owes a valid fine, judgment or contract payment to the Quinault Indian Nation or an entity of the Quinault Indian Nation.
- (g) The Department may waive any such grounds and issue or continue the permit conditioned on compliance with specific written conditions related to the grounds for refusal or

revocation. A cutter whose permit is denied or revoked may appeal such decision by following the procedures of this Title.

61.05.12     Hauling Permit Required; Washington Forms; Fee; Display

(a) It shall be a violation of this Title for any person to haul forest products without having, in his or her possession, a valid Washington hauling permit endorsed by the Department or a Quinault Indian Nation hauling permit. The Department shall endorse hauling permits or issue a Quinault Indian Nation hauling permit within 15 working days of a request for endorsement or request for a permit unless it is found that the request is subject to denial or revocation. The Department may charge a fee for the endorsement of the hauling permit or for a hauling permit. The hauler shall display the hauling permit upon demand by any law enforcement officer, Department employee or BIA enforcement employee. The hauling

permit may indicate on its face whether material hauled under the permit must be scaled and whether hauling under the permit is restricted to specific roads or hours. The Department is hereby authorized to impose such restrictions in furtherance of this Title's purposes. If the Department fails to endorse the hauling permit or issue a hauling permit within 15 working days of the request, the hauling permit shall be deemed approved, and hauling may be commenced, provided that, this provision shall not apply where the Department is prohibited from endorsing or issuing a hauling permit pursuant to this Title or the rules and regulations adopted pursuant to this Title.

- (b) The Department shall prescribe the form and content of the application for a Quinault Indian Nation Hauling permit and require such information as it deems necessary in order to satisfy the purposes of this Title.

61-05.13 Hauling Permit - Grounds for Denial of Endorsement  
or Revocation of Endorsement

The Department may refuse to endorse a hauling permit or issue a hauling permit and may revoke its endorsement or revoke a hauling permit, without prior notice, for any of the following reasons:

- (a) The hauler has violated the provisions of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.
- (b) Fraud or material misrepresentation on the request for endorsement or permit application.
- (c) Failure to provide information required in the request for endorsement or permit application.
- (d) The hauler has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.
- (e) The hauler owes a valid fine, judgment or contract payment to the Quinault Indian Nation



or an entity of the Quinault Indian Nation.

- (f) The Department may waive any such grounds and endorse the hauling permit or issue a hauling permit conditioned on compliance with specific written conditions related to the grounds for denial or revocation. A hauler whose request for endorsement or application is denied or whose endorsement or permit is revoked may appeal such decision pursuant to the procedures of this Title.

61.05.14

Transportation and Scaling of Minor Forest Products: Hours: Hauling Products Harvested Off-Reservation

- (a) The driver of any vehicle hauling minor forest products shall have, in his or her possession, a valid hauling permit. All vehicles hauling minor forest products shall stop for inspection when passing any scaling or check station on the Reservation. At such stops, the hauler shall exhibit the hauling permit and any other permit or card and the forest

products shall be scaled, if required. Any vehicle hauling minor forest products and passing a scaling or check station without stopping and exhibiting the hauling permit shall, along with its driver, be deemed in violation of this Title. Hauling shall be restricted to the hours between 8:00 a.m. and 5:00 p.m., provided that, no hauling shall be done on weekends or holidays. The Department is hereby authorized to modify these provisions regarding hours, upon request for such a modification received by the Department from any person holding a current hauling permit, combined with a showing for a substantial need for such modification. Denial of a modification request may not be appealed. If such a modification is granted, the Department shall promptly notify the Chief of the Quinault Nation Police Department.

- (b) Any person hauling minor forest products on the Quinault Reservation not harvested on the

Quinault Reservation shall have a valid Washington hauling permit in his possession and shall produce and display that permit at the request of any law enforcement officer, Department employee or BIA enforcement employee. Violation of this Section shall subject the person hauling the products to the enforcement and penalties Section of this Title.

61.05.15

Denial of Application: Revocation of Approved Application or Permit-Appeal

- (a) A person may appeal the Department's denial or revocation of a natural resource practices application, minor forest product work permit, hauling permit or hauling permit endorsement to the Director within 10 business days after receiving notice of the denial or revocation. The Director shall schedule a hearing on the denial, revocation no more than 10 business days from receipt of the notice of appeal. Notice shall also be given to the Department

employee responsible for the denial or revocation.

(b) At the hearing, the operator, cutter or hauler may be represented by counsel, may present evidence and cross examine evidence against him or her. The Director shall hear all relevant evidence pertaining to the operation, reasons and events leading to the denial or revocation. The Director may inspect the site of the operation, provided that, if the Director is accompanied by Department employees, then the operator or the operator's counsel shall be afforded an opportunity to accompany the Director on the inspection.

(c) Within 10 business days after the hearing, the Director shall provide a written decision. The decision shall be based on the evidence presented at the hearing and/or the inspection of the site of the operation. The decision may grant the application, reinstate the application or permit, revoke the application

or permit or modify the application or permit by adding or deleting specific conditions.

The Director's decision may be appealed to the Tribal Court within 20 days from the date of the Director's decision, provided that, appeals taken from decisions made by the Director under this Title shall be reviewed by the Court sitting without a jury in accordance with the rules and laws governing appeals from administrative decisions. In no event shall the Court enter a judgment for damages against the Department, the Quinault Indian Nation or an employee of the Quinault Indian Nation.

- (d) Service of all Department decisions and notices may be made by personal service or by mail to the appellant's last known address. In the event of service by mail, the decision shall be deemed received on the third day following the mailing.
- (e) An appeal of the decision shall be served on the Director and the Office of Reservation

Attorney by certified mail.

61.06 Unlawful Harvest

61.06.010 Liability

It shall be a violation of this Title for any person to willfully harvest, take possession of or injure any forest product on any land without lawful authority of the owner thereof.

61.06.020 Failure to Locate Boundary - Liability

It shall be a violation of this Title for any person to harvest, possess or injure any forest product on any land without lawful authority of the owner thereof due to the failure of the person to accurately locate the land for which he or she has such authority or due to the failure of the person to accurately establish the boundary line of land for which he or she has such authority

61.06.030 Traditional Non-Commercial Use of Minor Forest Products: Firewood - Tribal Permit

This Title and its provisions shall not apply to tribal members who are gathering minor forest products on the Reservation for personal or family

traditional, non-commercial use. This Title and its provisions shall not apply to persons who are cutting or hauling firewood under a tribal firewood permit.

61.07

Hydraulic Projects

61.07.010

Approved Hydraulic Application Required

- (a) It shall be a violation of this Title for any person to divert any stream or river or remove water from any river, stream, spring, pond, tidal area, lake, or any other body of water on the Quinault Indian Reservation, including ground waters, without obtaining an approved application to do so from the Department. It shall be a violation of this Title for any person to conduct work in or near (within 200 feet) of a stream, river, lake, tidal area, pond, groundwater, or any other body of water on the Quinault Indian Reservation without obtaining an approved application from the Quinault Department of Natural Resources to do so.

(b) The Quinault Department of Natural Resources may delegate, by regulation, the responsibility for investigating requests for, and the issuing of, hydraulic applications to any agency of the Quinault Indian Nation, or any other agency with whom the Quinault Business Committee may enter into agreement or contract for such purpose. The Quinault Department of Natural Resources or any other agency to whom the Quinault Department of Natural Resources has delegated any responsibility for issuing or investigating hydraulic applications shall consult the Fish and Game Commission, tribal fisheries and tribal forestry technicians before issuing any approved application.

(c) The Quinault Department of Natural Resources may, by regulation, condition the consideration or issuing of an approved hydraulic application on:

- (1) The payment of a permit fee.
- (2) An investigation fee sufficient to cover



the cost of providing the information necessary to decide whether or under what conditions a permit should be issued.

(3) Provision of all information required by the Department or its delegated agency.

(d) Hydraulic applications may include conditions which require the applicant to:

(1) Allow unlimited inspection by the staff of the Quinault Indian Nation.

(2) Pay for waters diverted or polluted.

(3) Pay for damage to fish spawning beds or other natural or man-made resources of the Quinault Indian Nation caused by work carried out under the application; or

(4) Agree to any other condition reasonably related to the purpose and intent of this Title.

(e) All applications requested under this Section shall be approved or denied or an alternative offered within 120 days of the filing of the request. If an application is not approved or

denied or an alternative offered with 120 days, it shall be considered to have been granted as requested.

61.08 Water Classifications

61.08.010 Types of Water - Requirements

- (a) The Department shall establish no more than 4 types of waters. These types of water shall be defined to identify all waters of the Reservation, grouped according to the size of the water, its sensitivity as a fish-supporting water or its sensitivity for other resource protection. The types of waters shall be grouped as follows:

Type 1 Water - All waters identified as a sensitive resource.

Type 2 Water - Waters not classified Type 1 water. Perennial or intermittent streams having a well-defined channel 8 feet in width or greater between ordinary high water marks along the majority of the length of the stream segment, and impoundments having a surface

area greater than 0.5 acres at seasonal low water.

Type 3 Water - Waters not classified as Type 1 water. Perennial or intermittent streams having a well defined channel less than 8 feet in width and greater than 4 feet in width between ordinary high water marks along the majority of the length of the stream segment, and impoundments having a surface area greater than 0.2 acres and less than 0.5 acres at seasonal low water.

Type 4 Water - Waters not classified as Type 1, 2 or 3 waters.

- (b) The Department shall identify those waters which are known to constitute a critically sensitive resource for purposes of fish rearing, flood control, stream bank protection, wildlife protection, water quality, and other conditions unique or critical to maintaining the life style of the Reservation residents. These waters shall be

defined as Type 1 waters and identified on a map or sketch, such map or sketch to be titled "Stream Classification Map" and be available for public review at reasonable times. Streams, stream segments and other waters may be added to or deleted from the Stream Classification Map from time to time, as conditions warrant.

- (c) The Department may, at its discretion, expand the scope of the Stream Classification Map to include Type 2, 3 and 4 waters. The classification of these waters shall be updated from time to time, as the physical characteristics of streams and other waters change.

61.09

Reforestation

61.09.010

Reforestation - Requirements - Procedures - Bond

- (a) After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the Department shall be completed within 4 years.

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The Department shall require a natural resource practices applicant to submit a reforestation plan with any application, except where no reforestation is required under tribal law or regulation. The Department may not approve an application unless a reforestation plan is submitted and has been approved by the Department.

- (1) Provided that, a longer period may be authorized if seed or seedlings are not available.
- (2) Provided further, that a period of up to 5 years may be allowed where a natural regeneration plan is approved by the Department.
- (3) Upon the completion of a reforestation operation, a report on such operation shall be filed with the Department. Within 12 months of receipt of such a report, the Department shall inspect the reforestation operation and shall

determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

(4) The natural resource practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is incompatible with timber growing.

(b) The Department shall establish requirements for and limitations on forest site preparation sufficient to protect Reservation resources from unreasonable damage while, at the same time, ensuring site conditions suitable for adequate reforestation.

(c) The natural resources practice regulations may identify classifications of forest land which have the likelihood of conversion to a use other than commercial timber operations.

Reforestation requirements may be modified or eliminated on such lands.

- (d) The Department may require an operator or timber owner to post a reforestation bond prior to approving an application for a Class III or IV natural resource practice to ensure that reforestation is accomplished in accordance with tribal laws and regulations.

61.10

Coastal District

61.10.010

Coastal District - Restrictions - Exceptions

- (a) The purpose of this section is to provide protection for and retain the natural beauty of the lands and other resources within the Coastal District. Forest practice operations within the Coastal District shall be a Class IV natural resource practice.
- (b) The Department shall develop standards for natural resources practices within the Coastal District which shall include, but shall not be limited to, the following:
  - (1) The removal of standing, live timber from

any proposed harvest unit shall not exceed 1/3 of the merchantable volume of timber standing on the proposed harvest unit during any 10 year period of time, provided that, the Department may approve additional harvest when, in the opinion of the Department, such removals are necessary to control, salvage or abate wind-throw, insect or disease infestation or other casualty.

(2) The use of heavy equipment within the Coastal District shall be restricted to minimize damage to soil, vegetation and water resources.

(3) Shoreline protection strips of appropriate width but no less than 200 feet, shall be left undisturbed along coastal bluffs, beach fronts and coastal wetlands and marshes when the Department determines that such control is necessary to protect the water resource, wildlife



resource, prevent accelerated erosion or protect against windstorm damage. Minor clearing may be allowed within 200 feet of coastal beaches, beach fronts, coastal wetlands and marshes in those areas where such clearing is authorized by the Quinault Indian Nation's zoning laws or regulations and the clearing activity will not harm the water resource, wildlife resource, accelerate erosion or cause potential windstorm damage.

- (4) Upon completion of the natural resource practice, slash abatement and site rehabilitation shall be accomplished, according to the approved plan, to minimize the residual damage to the aesthetic and recreational values of the District and to the extent reasonably possible, return the land to the condition that existed prior to the natural resource practice.

61.11 Fire Control

61.11.010 Fire Controls - Policy & Requirements

(a) The Department shall evaluate the risk of wild-fire hazard on Reservation lands and promulgate regulations for forest fire prevention and suppression which shall include, but not be limited to rules, governing:

- (1) Required fire tools and equipment.
- (2) Fire watchmen.
- (3) Fire drills.

Provided that, such regulations shall, in no respect, be less stringent than those required under laws of the state of Washington.

(b) The Department may identify areas of extreme fire hazard and establish special regulations to deal with conditions which exhibit a greater than normal fire risk.

(c) The Department may enter into cooperative and/or contractual agreements with other persons or agencies for fire protection and

fire suppression support, as necessary to protect Reservation resources.

61.12

Enforcement

61.12.010

Civil Enforcement: Civil Money Penalty; Restitution; Operator Responsibility

- (a) This Title is civil in nature and applies to Indians and non-Indians alike.
- (b) Violations of the requirements of this Title regulations adopted pursuant to this Title, conditions or terms of an approved Natural Resource Practices Application, conditions or terms of a hauling permit or endorsement or Minor Forest Product Work Permit, or orders issued by the Department or Director shall constitute a violation of This Title and may be enforced by injunction and any combination of civil money penalties, rehabilitation to the land, water and wildlife, enforcement costs, restitution and forfeiture. Appointed legal representatives of the Quinault Indian Nation are empowered, under this Title, to

pursue civil enforcement remedies on behalf of the Nation and individuals whose ownership interests are affected by violations of this Title.

(c) Any license, permit, identity card, or other authority granted by the Quinault Nation to any person, to commit any act or engage in any activity governed by this Title or regulation made pursuant to this Title, shall be forfeited and void if such person violates this Title or regulations made pursuant to this Title governing the activity allowed by the license, permit, etc. and shall be suspended during the pendency of any proceedings under this Title.

(d) Every person who violates this Title, as now or hereafter amended, shall be required to pay (1) civil monetary damages in the full amount of the costs of detecting and repairing or rehabilitating any damages done to the land, wildlife or water as a result of the violation, (2) the costs of enforcement and

collection of such damages, (3) 3 times the fair market value of any timber or forest products harvested, possessed, injured or destroyed, (4) a civil penalty not to exceed \$5,000.00 for each violation and (5) court costs and attorney fees and (5) restitution.

- (e) Violations of a separate term or condition of a permit or approved application, a rule, regulation or provision of this Title shall each constitute a separate violation regardless of whether the violations are the result of single occurrence or transaction. Each day a violation occurs shall also constitute a separate violation.
- (e) Operators are liable for the violations committed by their affiliated cutters and haulers, contractors or employees. The Quinault Indian Nation may pursue civil remedies and penalties against operators for violations committed by their affiliated cutters, haulers, contractors or employees.

61.13.020 Civil Enforcement Procedures

Civil enforcement proceedings under this Title shall be conducted in accordance with the Tribal Court Rules of Civil Procedure except that the parties shall not be entitled to a trial by jury.

61.13.030 Products and Equipment Subject to Seizure: Forfeiture; Probable Cause

(a) Any equipment, including vehicles, used in violation of this Title or used to effect a violation of this Title, may be seized and may be forfeited to the Quinault Indian Nation. Any timber or minor forest products cut, harvested, transported or possessed in violation of this Title may be seized and may be forfeited to the Quinault Indian Nation.

(b) Whenever any law enforcement officer has probable cause to believe that minor forest products or timber are being cut, harvested, transported or possessed in violation of the provisions of this Title, such officer may seize and take possession of the minor forest

products, timber or equipment used to effect the violation of this Title.

61.13.040

Seizures and Civil Forfeiture of Property - Procedure

(a) When property or items are seized pursuant to the provisions of this Title, the person seizing said items must at the time of seizure issue a receipt for all items seized of a form substantially similar to the form provided as Appendix A to this Title. If the owner or claimant is not present to receive the receipt the person seizing the items must follow the procedure outlined in subsection (i) below.

(1) Contents of receipt The receipt must contain the date of the seizure, Incident Number associated with the seizure, a complete description of the item seized including any existing damage to the item, the serial number of the item (if applicable), the number of units of a particular item, the estimated value

of the item, an indication of whether the item is perishable, and space for the owner or claimant to register any dispute over the description, etc. of any item.

- (2) Receipt to be signed The receipt must be signed by the person seizing the item and by the claimant or owner of the item seized.
- (3) Disposition of the receipt A copy of the receipt must be given to the owner or claimant at the time of seizure. The original of the receipt is to be attached to and remain with the incident report.
- (4) Failure of the claimant or owner to sign receipt If the claimant or owner of the receipt fails or refuses, or is otherwise unable to sign the receipt, when practicable the items seized shall immediately be brought to the Tribal Police Department and a complete inventory of the item or items seized



shall be made in the presence of the shift supervisor or another law enforcement officer. The inventory shall be signed by the person seizing the item or items and witnessed by the shift supervisor or another law enforcement officer. The inventory shall contain the same information as the receipt described above (a receipt may serve as an inventory) and shall be kept with the incident report.

- (2) The owner or claimant may, at any time, ask for a receipt based upon the inventory and may register any dispute over the description, etc. of any item on the receipt.
- (3) Failure to issue receipt Failure by the seizing person to issue a receipt at the time of seizure shall be a bar to any forfeiture action under this Title and will require the immediate return of all

seized items to the lawful owner or claimant.

- (2) Filing of Civil Action The Quinault Indian Nation shall file a forfeiture motion at the same time complaint is filed against the alleged violator(s). A hearing on the forfeiture motion shall be held at the same time as the hearing on the underlying complaint unless the seized property has been forfeited or returned in a prior proceeding. If a complaint is not filed within 60 days from the date the property was seized, the Quinault Indian Nation shall bring a separate civil action to forfeit the property.

- (3) Notice Notice of a separate action to forfeit property shall be given to the claimant of the property seized by certified mail.

- (4) Procedure Except as otherwise provided

in this Title, the Quinault Tribal Rules of Civil Procedure shall apply to civil actions to obtain forfeitures of property for violation of this Title.

- (5) Emergency Forfeitures Upon a determination by the person seizing any item, or any person in the same department charged with making such a determination, that said item is perishable and will lose all, or substantially all, of its value if not sold or otherwise disposed of, an action may be brought for emergency forfeiture of the seized item or items. (A form motion and order is attached as Appendix B).
- (i) The Tribal Court shall have exclusive jurisdiction of such actions;
- (ii) The action must be filed by the person who made the seizure, or another person of the same department charged with

bringing such actions, within ten (10) court days of the seizure;

(iii) Any action for emergency forfeiture shall be ex parte in nature and no notice need be given of the action, provided that the owner or claimant may appear and ask to be heard on the record;

(iv) If the owner or claimant appears, the court shall set a hearing in the matter no later than the end of business of the next court day;

(v) Any action for emergency forfeiture must be reviewed by the court within one (1) day of the bringing of such action;

(vi) Failure to bring an emergency forfeiture action within the time limit set under section (ii) above shall bar any emergency forfeiture action without due notice to the owner or claimant;

(vii) Any moneys received from emergency forfeiture shall be held by the Nation in

an escrow account signified by the Incident Number under which the seizure occurred and held therein pending the filing of any action by the Nation, through the Nation's appointed attorney, to recover said moneys.

- (6) Procedure for Seizure In the event of a seizure, whether any item was the subject of an emergency forfeiture action or not, the rightful owner, lien holder, or claimant may petition the court in a separate action for the return of any item seized, provided that;
- (i) Such actions shall be governed by the Quinault Tribal Court Rules of Civil Procedure;
- (ii) The seizing party or department shall be designated as the Respondent and the person filing an action under this section shall be designated the Petitioner;

(iii) The Nation's appointed attorneys is here-  
with designated the representative of the  
person or department named as Respondent  
and shall be duly notified by the Tribal  
Court of any actions filed under this  
section;

(iv) In all actions brought under this section  
the Tribal Court may:

- A. Order the immediate return of any or  
all of the items seized to any  
person having lawful claim to said  
items upon a showing that a  
reasonable person could not have  
believed that the items seized were  
used or obtained in violation of  
this Title;
- B. Order that the items seized shall  
remain in the custody of the person  
or department that seized the items;
- C. Order that any or all of the items  
be returned to any person having

lawful claim to said items in  
exchange for bond or cash surety

61.13.050

Proceeds of Forfeitures

Any cash or other proceeds from forfeiture of products, equipment or other goods under this Title shall be applied, in the following order:

- (a) The costs, including court and related expenses, of detecting the violation, seizing, storing and handling any goods, prosecuting the case, collecting any judgment, selling forfeited goods and other goods and other costs reasonably associated with enforcing this Title.
- (b) The cost of rehabilitating the land, wildlife and waters affected by the violation.
- (c) Compensation for damages or other loss suffered by the rightful owner of any minor forest products or timber when such damage or loss leads to the forfeiture proceeding, provided that, any person wishing to claim such compensation must make a written demand

to the Court at least 1 day prior to sale or other disposal of forfeited goods. This compensation shall not be available to the owner if the owner is also the violator whose goods are being forfeited.

(d) Any fines or penalties imposed as a result of the violations.

(d) Any remaining funds shall be turned over to the Court for forwarding to the Department which shall use the funds solely for the enhancement of the land, water and wildlife of the Quinault Reservation.

61.13.060 Custody of Seized Property

All property seized pursuant to this Title shall be kept in the custody and/or control of the Quinault Tribal Police Department unless otherwise ordered by the Court. The property shall be kept available for disposal by order of the Court in forfeiture or other judicial proceedings.

61.14 Stop Work Order

61.14.010 Stop Work Order - Grounds - Contents - Procedures



(a) The Department may serve upon a person a stop work order which shall be a final order of the Department if there is a reasonable belief that:

- (1) A violation of the provisions of this Title or the rules and regulations adopted pursuant to this Title has occurred or is occurring; or
- (2) There is or has been a violation or deviation from the terms or conditions of an approved application or permit; or
- (3) Immediate action is necessary to prevent continuation of or to avoid material damage to a Reservation resource.

(b) The stop work order shall set forth:

- (1) The specific nature, extent and time of the violation, deviation, damage or potential damage.
- (2) An order to stop all work connected with the violation, deviation, damage or potential damage.

(3) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to Reservation resources which has resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource, and/or those courses of action necessary to prevent continuing damage to Reservation resources where the damage is resulting from the natural resource practice activities but has not resulted from any violation, unauthorized deviation or negligence.

61.14.020 Failure to Obey Stop Work Order - Departmental  
Action Authorized - Liability of Owner or Operator  
For Costs

(a) When a person fails to obey a stop work order, or having undertaken such course of action as

required by the stop work order, but fails to complete it within a reasonable time, the Department may expend any funds available to undertake and complete such course of action, and such operator, timber owner, and forest land owner shall be jointly and severally liable for the actual direct cost thereof, in addition to any other fines, restitution or costs allowed under this Title. Such amount shall become a lien on such forest land.

- (b) The Department may take immediate action to prevent continuation of or avoid material damage to public resources, including but not limited to, seizure of the operator's equipment. The Department may determine the cost thereof and give written notice of such cost to the operator, the timber owner and the owner of the forest land upon or in connection with which such activity was being conducted. The operator, timber owner or forest land owner, shall be jointly and severally liable

for such emergency costs in addition to any other remedies allowed for under this Title. Such costs shall become a lien on the forest land.

b) If the costs expended under this section are not paid to the Department within 15 days after completion of any activity by the Department and written notice of the amount due and owing is mailed to the liable parties, a Notice of Infraction shall issue.

(c) Failure to comply with a stop work order shall be a distinct violation of this Title.

61.15 Notice to Comply

61.15.010 Notice to Comply

(a) If there is a reasonable belief that a violation of this Title or regulations adopted pursuant to this Title, a deviation, material damage or potential for material damage to a Reservation resource has occurred or is occurring and the Department determines that a stop work order is unnecessary, then the

Department may issue and serve upon the operator or land owner a notice, which shall clearly set forth:

- (1) The specific nature, extent and time of failure to comply with the approved application or identifying the damage or potential damage; and/or
- (2) The relevant provisions of this Title or of the forest practice regulations relating thereto.
- (3) The right of the operator or landowner to a hearing before the Department; and
- (4) The specific course of action ordered by the Department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to Reservation resources which resulted from any violation, unauthorized deviation or willful or negligent disregard for potential damage to a Reservation

resource, and/or those courses of action necessary to prevent continuing damage to Reservation resources where the damage is resulting from the natural resource practice activities but has not resulted from any violation, unauthorized deviation or negligence.

(b) The Department shall mail a copy thereof to the forest landowner and the timber owner at the addresses shown on the application, showing the date of service upon the operator.

(c) If a person fails to undertake the course of action contained in the Notice to Comply the Department may issue a Stop Work Order and/or a Notice of Infraction.

(c) Failure to undertake the course of action contained in the Notice to Comply constitute a distinct violation of this Title.

61.16

Notice of Infraction

61.16.010

Notice of Infraction-Content

(a) The Department or any law enforcement officer

shall serve a Notice of Infraction on any person who has been issued an approved application where there is a reasonable believe that:

- (1) A violation of the provisions of this Title or the rules and regulations adopted pursuant to this Title has occurred or is occurring; or
- (2) There is or has been a violation or deviation from the terms or conditions of an approved application or permit; or
- (4) There is a failure to comply with a Stop Work Order, Notice to Comply or final order of the Department or final decision by the Director after a hearing.

(b) A Notice of Infraction shall be contain the following:

- (1) The specific nature, extent, and time of the violation(s), and the provisions, rules, regulations, terms or conditions violated.

(2) A copy of the receipt of any items, products or equipment seized.

(3) The amount of the costs, fines, and restitution authorized by this Title and imposed by the Department.

(c) Notwithstanding any other provision of the Quinault Tribal Code, the Notice of Infraction may be personally served or mailed to a person's address as shown on an application.

(d) If the amount of the costs, fine and restitution contained in the Notice of Infraction are not paid within 15 days from the date the Notice of Infraction is mailed, upon the request of the Department, the Nation's appointed attorney shall bring an action in Tribal Court.

61.17 Citation

61.17.010 Citation-Content

(a) Where law enforcement officer or Department employee has a reasonable belief a person has



violated this Title or the rules and regulations adopted pursuant to this Title and the person has not filed an application with the Department, the person shall be issued a citation.

(b) A citation shall contain the following:

- (1) The time of the violation(s), and the provisions, rules, regulations, terms or conditions violated.
- (2) A copy of the receipt of any items, products or equipment seized.
- (3) The amount of the costs, fines, and restitution authorized by this Title and imposed by the Department.
- (4) A certification by the person issued the citation that he or she has been served the citation and is a party to a lawsuit and that the address indicated on the citation is the person's true and correct address and that all further notices and pleadings are properly served if mailed

to that address.

(c) If the amount of the costs, fine and restitution contained in the citation are not paid within 15 days from the date the citation is served or mailed, upon the request of the Department, the Nation's appointed attorney shall bring an action in Tribal Court.

61.18.010 Limitation

(a) No person shall be under any obligation under this Title to prevent, correct or compensate for any damage to Reservation resources which occurs more than 2 years after the date of completion of the activities or operations involved, exclusive of reforestation, unless such operations or activities were not conducted in accordance with natural resource practices rules and regulations, provided that, this provision shall not relieve the forest land owner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing

road maintenance. (b) No action to recover damages for unlawful harvest or violations of this Title shall be filed more than 2 years after the date the damage or violations occur or were discovered or could have been reasonably discovered, whichever is later.

61.18.010

Inspection - Right of Entry

- (a) The Department shall make inspection of forest lands, before, during and after the operation or activity as necessary for the purpose of ensuring compliance with this Title, the regulations adopted pursuant to this Title and to ensure that no material damage occurs to the natural resources of the Reservation as a result of such practices.
- (b) Any duly authorized representative of the Department shall have the right to enter upon forest land at any reasonable time to enforce the provisions of this Title and the regulations adopted pursuant to this Title..

61.19.010

Civil Complaints

Rev. 9/95

This title shall be enforced by civil complaint in the Courts of the Quinault Indian Nation and, where necessary, in other courts of competent jurisdiction. Notwithstanding any other provision of this Code, a civil complaint filed in the Courts of the Quinault Indian Nation shall be served by mailing a copy of the complaint by certified mail to the address provided by the party defendants on any application filed with the Department or any citation issued by the Department.

61.20.010 Actions affecting Water

All waters, including ground waters, of the Quinault Indian Nation or the Quinault Indian Reservation are hereby found to be necessary for the conservation of fish and wildlife on the Quinault Indian Reservation. It shall be, unless otherwise stated, a violation of this Title for any person to commit any act affecting the flow, quality, fish productivity or quantity of waters in any stream, lake, or other body of water within the Quinault Indian Reservation or elsewhere within

tribal jurisdiction except in accordance with this Title or other applicable tribal laws.

61.21.010

Failure to Obtain License or Permit or to Pay Tax

- (a) It shall be, unless otherwise stated, a violation of this Title for any person, required by this Title, or by regulation adopted pursuant hereon, to pay a specific tax or obtain a specific license, permit or written authorization, to commit the specific act requiring a tax, license, permit or written authorization without paying the tax or obtaining the necessary license, permit or written authorization.
- (b) Any person engaged in any activity governed or permitted by this Title shall have on his or her person any license, permit, identification card, or other document required by regulations adopted pursuant to this Title while engaged in such activity. Failure to have a required document on one's person shall be a violation of this Title.

(c) No license, permit, identification card, or other document required by this Title or regulations adopted pursuant to this Title shall be transferable. All such documents shall be signed by the holder. A transferred document shall be confiscated and shall be void.

61.22.010 Aiding and Abetting

It shall be, a violation of this Title for any person to aid or abet another person in perpetuating a violation of this Title or any regulations duly adopted pursuant to this Title, or attempt any act which violates this Title or any regulation duly adopted pursuant to this Title.

61.23.010 Cooperation With Public Agencies - Grants And Gifts

The Department shall represent the Tribe's interest in matters pertaining to forestry, natural resource practices, forest land fire control, hydraulic projects and stream protection and may consult with and cooperate with state and federal agencies, as well as other agencies in the study and enhancement

of these matters. The Department is authorized, subject to approval of the Business Committee, to accept, receive, disburse and administer grants or other funds or gifts from any source, for the purposes of carrying out the provisions of this Title.

61.24.010 Statutes Not Modified

Nothing in this Title as now or hereafter amended shall modify or waive any requirements to comply with federal statutes or other permit requirements under the Code, provided that, compliance with the requirements of this Title regarding hydrologic structures shall constitute adequate compliance with the hydrologic structures Section of this Title.

61.25.010 Effective Date

This Title shall become effective 30 days after the date of official adoption. On the effective date of this Title former Titles 61 and 62 shall be deemed repealed.

61.26.010 Saving Clause, Severability Pending Actions

If any paragraph, sub-paragraph, clause, sentence or phrase of this Title or regulations adopted pursuant to this Title shall be declared invalid, or declared invalid as applied to any person or circumstance, such decision shall not affect the validity of the remaining portions of the Title, and those remaining portions shall remain in full force and effect and to this end, provisions of this Title and any regulations adopted hereunder are declared severable. Any action pending at the date of enactment of this Title shall not be affected by enactment of this Title, and the action shall proceed pursuant to prior provisions of the Quinault Tribal Code or regulations enacted pursuant thereto.





## Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (206) 278-8211

# MEMO

To: Legal *SM*  
From: Margie Valdillez, Secretary Quinault Indian Nation  
Subject: Title 61  
Date: October 24, 1995

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Action of the Quinault Business Committee for: October 23, 1995.

☒ APPROVED    ☐ DENIED    ☐ TABLED    ☐ OTHER

Move to Approve.



## Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (360)276-8211

### RESOLUTION NO. 95-66-73 QUINAULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation; and,

WHEREAS, under Article V, Section 3 (k) and (p) of the Constitution of the Quinault Indian Nation, the Quinault Business Committee is charged with the duty of protecting and managing the wildlife, natural resources, land and timber of the Nation; and,

WHEREAS, the Quinault Business Committee finds that current Titles 61 and 62 of the Quinault Tribal Code of Laws, which were enacted to protect and manage the natural resources, land and timber of the Quinault Indian Nation is outdated, confusing and no longer provides adequate management of the natural resources, timber and land of the Quinault Indian Nation; and,

WHEREAS, the proposed amendments to Title 61 of the Quinault Tribal Code better reflects the policies of the Quinault Indian Nation and better addresses the protection of the management of natural resources than the current Titles 61 and 62 and consolidates the laws regarding such management into one Title, Title 61; and,

WHEREAS, public hearings were held in Queets and Taholah on September 18 and 19 1995, on proposed amendments to Title 61 and 62 of the Quinault Tribal Code and comments taken at those hearings on the proposed Title;

NOW, THEREFORE, BE IT RESOLVED that the attached amended Title 61 is enacted into law and Title 62 is repealed; and,

BE IT FURTHER RESOLVED, that the above provision shall take effect January 1, 1996.

Pearl Capoeman-Baller  
Pearl Capoeman-Baller, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 23rd day of October 1995, at which time a quorum was present by a vote of 7 FOR, 0 AGAINST and 1 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee

# Quinault Indian Nation



## Title 52 Beach Lands

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**TITLE 52**

**BEACH LANDS**

A TITLE FOR THE PRESERVATION, PROTECTION, AND USE OF BEACH LANDS OF THE QUINAULT INDIAN RESERVATION.

WHEREAS by Executive Order of November 4, 1873, the Quinault Indian Reservation was set aside, pursuant to the Treaty of July 1, 1855, 12 Stat. 971, as land necessary for the livelihood of the Quinault Indians and certain "other tribes of fish-eating Indians, which land included beach lands along the Pacific Ocean above the "low water mark"; and

WHEREAS, it is generally recognized that the Indians of the Quinault Reservation have, beyond the memory of man, used the beach lands along the Pacific Ocean within the Reservation freely, continuously and uninterruptedly for the purposes of fishing and the taking of shellfish, for the taking of driftwood for firewood, for recreational purposes, and other purposes; and that such uses by the Indians of the Quinault Reservation have been as a result of the ownership of the tidelands and the rights established in the remainder of beach lands by custom, tradition, practice and long and continuous use; and,

WHEREAS, it is necessary for the peace and welfare of the Indians of the Quinault Reservation to preserve, maintain, and protect the rights of the Indians of the Quinault Reservation in the continued use of the beach lands and to adopt reasonable regulations on the use thereof so as to prevent any obstruction, barrier, encroachment, abuse, or interference with the established

use of such beach lands, and to provide for the enforcement thereof,

NOW THEREFORE, the Tribal Council of the Quinault Tribe does ordain as follows:

52.01.010      Description of Beach Lands

"Beach Lands" means any lands seaward of the line of natural vegetation along the Pacific Ocean, being the extreme seaward boundary of compact natural vegetation which spreads continuously inland. In cases where there is no clearly marked vegetation line, the "line of natural vegetation" shall follow a constant line of elevation, being the average elevation of the clearly-marked line of vegetation on each side of the unmarked area.

52.02.010      Construction on Beach Lands

It shall be an offense for any person to create, erect, maintain, or construct any building, obstruction, barrier, restraint of any nature whatsoever within the beach lands as defined in 52.01.010, without having first obtained a written permit from the Business Committee of the Quinault Tribal Council. No permits shall be given for the area below the line of mean high tide except as provided in 52.06.010. A permit for the construction within the area above the line of mean high tide shall be granted only at the discretion of the

Quinault Business Committee and only after it is clearly shown that such construction will not be inconsistent with the provisions of this Title nor interfere with the rights of the Indians of the Quinault Reservation to freely and uninterruptedly use the beach lands for the purposes which have long been established and that such construction will have no damaging effect upon the marine life or cleanliness of water or air in and along said beach. The Business Committee is authorized to adopt rules and regulations for the issuance of such permits and to prescribe reasonable fees to be charged therefore. Anyone who violates the provisions of this Section shall be deemed to be in trespass of the property rights of the Indians of the Quinault Reservation in and to the beach lands, and shall be required to remove such obstruction, barrier, or interference, to cease from further obstruction and interference and shall be liable for all damages caused thereby. The Business Committee is directed to cause necessary and appropriate legal actions to be filed in courts of competent jurisdiction to enforce the provisions contained in this Section and to take such other lawful actions as may be appropriate.



52.03.010

Destruction of Beach Lands

It shall be an offense for anyone to use the beach lands in such a manner that would tend to destroy the natural beauty or pollute the beach lands, interfere with the established use thereof by the Indians of the Quinault Reservation or which would tend to create a nuisance thereon. The following rules and regulations covering the use thereof are hereby adopted.

(a) No person shall deposit or willfully permit the deposit of any debris, rubbish, or refuse upon the beach lands.

(b) No person shall deface or destroy the natural beauty of the rocks, cliffs, vegetation and other objects of nature upon or within the beach lands.

(c) No sand, rock, mineral, marine growth, drift-wood, fish, wildlife, agates or souvenirs or other product of the beach lands shall be taken from the beach lands by anyone, except pursuant to the terms and conditions of a written permit first obtained from the Quinault Business Committee. No permit shall be issued unless it is shown that the removal will not be inconsistent with the conservation of the natural resources of the beach lands. The Business Committee is authorized to adopt rules and

regulations for the issuance of such permits and to prescribe reasonable fees to be charged therefore.

(d) No person shall set or permit any fire to be set upon the beach lands, except pursuant to permits issued by the Business Committee in areas permitting the setting of camp fires, as provided herein.

(e) No person shall erect any tent or overnight shelter upon the beach lands or use the beach lands as an overnight camping area, except pursuant to permits issued by the Business Committee in those areas specifically designated and posted by the Business Committee as overnight camping areas, as provided herein.

(f) No person shall operate or park or permit the operation or parking of any motor vehicle upon the beach lands, except in areas specifically designated and posted by the Business Committee as permitting such operation or parking, as provided herein.

(g) No person shall be permitted upon the beach lands in an intoxicated and disorderly condition, or shall engage, while on the beach lands, in any acts of indecency or immorality.

(h) No person shall violate any rules and regulations subsequently adopted for the use of the beach lands by the Quinault Business Committee.

(i) No person, other than a member or employee of the Quinault Nation acting in the course of his or her employment, shall operate, land, park, moor or permit the operation of any waterborne craft or aircraft upon the beach lands, except when specifically permitted by regulations adopted by the Quinault Business Committee which may, by regulation, establish a permit and fee system for such fee use of beach lands.

(j) A violation of this Section shall be considered a Class B violation of Title 51 of the Quinault Tribal Code and shall subject violators to criminal or civil prosecution, in accordance with the provisions of Title 51.

52.04.010

Development of Beach Lands

The Business Committee is authorized to cause a study of the beach lands to be made to determine the feasibility of designating and developing certain areas of the beach lands for limited additional uses, such as areas where camping, overnight camping or the operation and parking of motor vehicles may be permitted. Pursuant to such study, the Business Committee is authorized to prepare

plans for development of the beach lands, to classify the beach lands as to such uses and to designate areas where such activities may be permitted. Provided however, that no such area designated and developed for the limited use, such as camping, overnight camping or motor vehicle area, shall be opened for such additional limited use until the Business Committee shall have adopted adequate rules and regulations to control the use thereof, not inconsistent with the purposes of the Title, have adequately posted such areas designating the use permitted and have provided adequate means for the enforcement of the additional limited use in such area.

52.05.010

Enforcement

Any person who violates any of the rules and regulations for the use of the beach lands of the Quinault Reservation shall be requested to immediately leave the beach lands. If he fails to do so or returns before paying for any damage caused by such nuisance and trespass, he may be prosecuted in the Tribal Court or physically ejected from the Reservation. In addition, any equipment or property involved in the violation, such as surf boards, camping equipment, etc., may be confiscated.

52.06.010

Business Committee Rights

Nothing in this Title shall be deemed to diminish the right of the Quinault Business Committee to lease or permit rights-of-way over and across the beach lands for the benefit of the Indians of the Quinault Reservation, except that any such lease or permit affecting beach lands within the Quinault Indian Reservation shall be subject to all the provisions of this Title.

52.07.010

Business Committee Enforcement

When the Business Committee determines that the regulatory provisions herein provided can be reasonably enforced, it is authorized to open, subject to all the restrictions herein provided, all or any portion of the Quinault beaches which were heretofore closed. The Business Committee is also authorized to subsequently close all or any portion of the beach lands so opened if they find that the rules and regulations herein provided or the rules and regulations adopted by the Business Committee pursuant to this Title, cannot be adequately enforced and to continue such closure until means of adequate enforcement have been found.



# Quinault Indian Nation

POST OFFICE BOX 189 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (360) 276 - 8211

## QUINAULT BUSINESS COMMITTEE

RESOLUTION NO. 12-94-91

WHEREAS, the Quinault Business Committee is the recognized governing body of the Quinault Indian Nation under the authority of the Quinault Indian Nation's Constitution adopted by the Quinault General Council on March 22<sup>nd</sup>, 1975; and

WHEREAS, the Constitution (Art. V, Section 2) of the Quinault Indian Nation authorizes the Quinault Business Committee to enact laws for the welfare of the Nation as long as public hearings are conducted on said laws; and

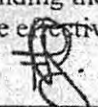
WHEREAS, the Business Committee conducted public hearings as required by the Quinault Indian Nation Constitution on amendments to Title 48 on June 25, 2012 in the Village of Taholah and August 13, 2012 in the Village of Queets; and

**NOW THEREFORE, BE IT RESOLVED**, that the Quinault Business Committee hereby approves and amends 48.03.020 to read as follows:

(a) There is hereby created a Planning Commission for the Quinault Indian Nation, which shall consist of up to five (5) voting members who shall be appointed by the Business Committee.

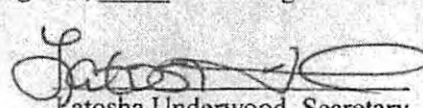
(b) Members shall consist of a representative cross-section of people; and

**THEREFORE BE IT FURTHER RESOLVED**, these amendments only replace sections 48.03.020(a) and 48.03.020(b) in their entirety, partially amending the prior Title 48 adopted on July 25, 2011 by Resolution No. 11-105-90, and will be effective as of the date of execution of this Resolution.

  
Fawn R. Sharp, President  
Quinault Indian Nation

### CERTIFICATION

As Secretary of the Quinault Business Committee, I hereby certify that the foregoing resolution was duly enacted by the Quinault Business Committee on the 13<sup>th</sup> day of August 2012, by a vote of 9 for, 0 against, 2 abstaining.

  
Latosha Underwood, Secretary  
Quinault Indian Nation

**TITLE 48**  
**LAND USE AND DEVELOPMENT CODE**

**48.01 Authority, Purpose, Scope.**

**48.01.010 Authority.**

- (a) Notwithstanding the issuance of any patent, the jurisdiction and governmental power of the Quinault Indian Nation shall extend to: (i) all lands, resources and waters reserved to the Quinault Nation pursuant to the Treaty of Olympia, 12 Stat. 971, established by Executive Order dated November 4, 1873 (1 Kapp. 923) and to all persons acting within the boundaries of these reserved lands or waters; (ii) all lands or waters held by the United States in trust or reserved by the Quinault Nation for the use and benefit of any member of the Quinault Tribe when such lands or waters are not within the boundaries of an established Indian Reservation; and (iii) all members of the Quinault Nation while such members are within the boundaries of the United States of America. (Quinault Indian Nation Constitution, Article 1, Section 1).

By solemn treaty with the Quinault Nation proclaimed by President James Buchanan on April 11, 1859, 12 Stat. 971, the United States agreed to establish a reservation for the Quinault Nation and promised that, "no white man shall be permitted to reside thereon without permission of the tribe and of the superintendent of Indian Affairs or the Indian Agent."

- (b) By Executive Order of November 4, 1873, 1 Kapp. 923, President Ulysses S. Grant, in compliance with the treaty, established the Quinault Reservation at its present location, within the area where the Quinault Indians had lived since time immemorial:

In accordance with the provisions of the treaty with the Quinault and Quillehute Indians, concluded July 1, 1855, and January 25, 1856 (Stats. at Large, vol. 12, p. 971), and to provide for other Indians in that locality, it is hereby ordered that the following tract of country in Washington Territory (which tract includes the reserve selected by W. W. Miller, superintendent of Indian affairs for Washington Territory, and surveyed by A. C. Smith, under contract of September 16, 1861) be withdrawn from sale and set apart for the use of the Quinault, Quillehute, Hoh, Quile, and other tribes of fish-eating Indians on the Pacific coast, viz: Commencing on the Pacific coast at the southwest corner of the present reservation, as established by Mr. Smith in his survey under contract with Superintendent Miller, dated September 16, 1861; thence due east, and with the line of said survey, 5 miles to the southeast corner of said reserve thus established; thence in a direct line to the most southerly end of Quinault Lake; thence northerly around the east shore of said lake to the northwest point thereof; thence in a direct line to a point a half mile north of the Queetshee River and 3 miles above its mouth; thence with the course of said river to a point on the Pacific coast, at low-water mark, a half mile above the mouth of said river; thence southerly, at low-water mark, along the Pacific to the place of beginning.

Pursuant to the Quinault Indian Nation Constitution and applicable federal law, this Title asserts

land use and other civil regulatory authority over all persons and lands within the exterior boundaries of the Quinault Indian Reservation, over land held in trust for the Nation or its enrolled members outside the exterior boundaries of the Reservation, and over all enrolled Quinault Indian Nation members on lands outside of the exterior boundaries of the Reservation.

#### **48.01.020 Purpose.**

The purpose of this Title is to exercise the right of the Quinault Indian Nation and its members to make its own laws and be ruled by them and to exercise the treaty right of self-government guaranteed the Quinault Indian Nation by the Treaty of Olympia, 12 Stat. 971. The goal of this Title is to maintain the Quinault Indian Reservation and ensure the political integrity, economic security, and health and welfare of the members of the Quinault Indian Nation. This Title shall be interpreted so as to implement this goal so long as all persons subject to this Title are guaranteed due process of law and the equal protection of the laws of the Quinault Indian Nation and the United States of America. The specific objectives to be implemented by this Title are listed below:

- (a) To ensure an ecologically balanced environment that is compatible with the desired lifestyle of Reservation residents.
- (b) To provide adequate community facilities, roads and utilities, thereby promoting the health, safety and general welfare of Reservation residents.
- (c) To establish a desirable pattern of land uses.
- (d) To provide development standards flexible enough to stimulate creativity and variation while maintaining sufficient control to achieve the objectives of this Title.
- (e) To encourage the grouping of uses that are functionally and aesthetically compatible.

#### **48.02 Definitions.**

**Abandoned** means a structure that is discontinued or not used for a continuous period of six (6) months.

**Accessory** means a structure or use that is not used for human habitation and: (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot and in the same zoning district as the principal use.

**Adverse impacts** means negative consequence for the physical, social, natural or economic environment resulting from an action or project.

**Area of special flood hazard** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. At this time the Areas of Special Flood Hazard have not been specifically identified. When the Federal Insurance Administration has identified Areas of Special Flood Hazard in a scientific and engineering report entitled "The Flood Insurance Study for the Quinault Indian Nation", the report with accompanying Flood Insurance Maps will



hereby be adopted by reference and declared to be a part of this Title. The Flood Insurance Study will be on file at the Planning Department

**Artificial wetland** means wetlands created from non-wetland sites through purposeful, legally authorized human action, such as irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, and landscape amenities.

**Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

**Base Flood Elevation** means the computed elevation to which floodwater is anticipated to rise during the base flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Beach** means the land between the ordinary high tide line and extreme low tide line.

**Building (v).** means the act of assembling materials into a structure with walls and a roof.

**Building (n).** means a built or created walled and roofed structure.

**Building Inspector** means the person(s) authorized by the Quinault Indian Nation to perform the duties and responsibilities of a Building official or officer as defined by the accepted Quinault Indian Nation Building Code.

**Business Committee** means the governing body of the Quinault Nation as defined in Article IV of the Quinault Constitution.

**Commercial (minor)** means the provision of goods or services for compensation from a building with a gross floor area of not more than 1,800 square feet and less than four employees on the premises.

**Commercial (major)** means the provision of goods or services for compensation from a building with a gross floor area of more than 1,800 square feet and more than four employees on the premises.

**Commission** means the Quinault Planning Commission.

**Construction and construction activities** means any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodlands,

wetland, endangered species habitat, aquifer or other resource area, including coastal construction or other activity.

**Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations that produce, use or store hazardous materials or hazardous waste.

**Department** means the Quinault Planning Department.

**Development** means any human-caused material change in the use or appearance of any structure or in the land itself. Development includes: subdivision of land; construction of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetative cover (with the exception of agricultural activities), including within the area of special flood hazard. Routine repair and maintenance activities are exempted.

**Dune** means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach, and deposited by natural or artificial means.

**Dwelling and dwelling unit** means a building or part of a building or structure containing living, sleeping, and sanitary facilities for occupancy.

**Elder** - see "Tribal Elder."

**Flood or flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood insurance rate map (FIRM)** means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood insurance study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**Floodplain Administrator** is an individual employed by the Quinault Indian Nation who administers Section 48.08, Flood Hazard Reduction, of this Title.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Industrial** means of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Title found in Section 48.08.

**Manufactured Home** means a structure that is manufactured in one or more sections at a location other than the site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process and towed to the site on its own chassis or by any other alternative means. Every section shall bear a label certifying that it is built in compliance with the National Manufactured Home Construction and Safety Standards. For floodplain management purposes, the term "manufactured home" also includes recreational vehicles. For insurance purposes, the term "manufactured home" does not include recreational vehicles.

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Marine Bluffs** means coastal features that resulted from wave erosion undercutting uplands located contiguous to the shoreline, creating vertical cliffs that are an important source of sediment for coastal drift processes and/or the landforms created by these processes.

**Mill** means facility for manufacturing, including a saw mill and shake mill.

**Mobile Home** means a transportable structure suitable for year-round occupancy and having water, electrical, sewage connections and not less than 32 feet in length.

**Motor Home** means a self-contained portable structure with no exterior sewer, water or electrical connections, designed for occupancy and constructed as an integral part of a self-propelled vehicle used as a temporary dwelling for travel, recreational, and vacation uses.

**Natural Resource Activities** means any activity conducted on or directly pertaining to forest lands, tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater, wetlands, marshes and any other body of water, including but not limited to:

- (1) Road and trail construction
- (2) Harvesting, final and intermediate
- (3) Pre-commercial thinning
- (4) Reforestation
- (5) Fertilization
- (6) Prevention and suppression of disease and insect damage
- (7) Salvage of trees and down logs
- (8) Brush control

(9) Gravel and mineral extraction

(10) Any activity with the potential to effect tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater, wetlands, marshes and any other body of water

**Non-Conforming Use** means the use of a building, structure or parcel of land that does not conform to the regulations of the zone in which it is located or a use which lawfully occupied a building or parcel of land at the time this Title became effective and which does not conform with the use regulations of the zone in which it is located.

**Office** means a room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

**Open Space** means land and/or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

**Planned Unit Development** means an area of land developed as a single unit for a number of buildings or a number of uses that allows concentration of buildings in a specific area on the site to allow the remaining area to be used for open space or preservation of Sensitive Areas.

**Planning Commission** means the Quinault Planning Commission.

**Potable** means water suitable for human consumption or human contact.

**Principal Structure or Use** means the single primary structure or use on a lot, as distinguished from accessory uses or structure.

**Public Building** means a structure principally of an institutional nature and serving a public need, such as churches, hospitals, schools, libraries, museums, post offices, police and fire stations, public utilities, and other public services, but not including the operation of a public bar, restaurant, or recreational facility as a commercial enterprise.

**Recreational vehicle** means a vehicle that is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

**Resource Extraction** means the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

**Setback** means the required distance between every structure and the lot lines of the lot on which it is located.

**Single-Family** means a single person or two or more persons related to each other by blood, marriage, or legal adoption living together as a single housekeeping unit; or a group of not more than five persons who need not be related by blood, marriage, or legal adoption, living together as a single housekeeping unit and occupying a single dwelling unit.

**Site Plan** means a detailed drawing, to scale, including but not limited to the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscape features, existing and proposed grading, walkways, lot lines and other site development information as related to a proposed development.

**Spot-Zoning** means a change in zoning of a lot or parcel to benefit an owner for a use incompatible with surrounding uses and not in furtherance of public interest or comprehensive plan.

**Start of construction** means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

- (1) before the start of construction of improvement or repair, or
  - (2) if the structure has been damaged and is being restored, before the damage occurred.
- For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the

- local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Temporary Use** means a use for a fixed period of time, with the intent to discontinue such use upon the expiration of such time, which does not involve the construction or alteration of any permanent structure.

**Travel Trailer** means a self-contained portable structure with no exterior sewer, water or electrical connections, built on a chassis used as a temporary dwelling for travel, recreational, and vacation uses.

**Tribal Elder** means a person enrolled in a federally-recognized Indian Tribe who is fifty-five (55) years of age or older.

**Wetland** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

#### **48.03 Administration.**

##### **48.03.010 Quinault Planning Department.**

There is established a Quinault Planning Department to administer this Title and the Quinault Comprehensive Plan. The Department includes employees and contractors of the Nation with expertise in land use, zoning, and building who work with and provide technical and administrative support to the Commission in administering and enforcing this Title. Among the duties of the Department related to administering this Title are: (a) determining the completeness of applications and adequacy of submissions for activities authorized by this Title; (b) reviewing applications submitted for activities authorized by this Title and recommending actions by the Commission; (c) submitting a proposed annual budget for the Department for consideration and approval by the Business Committee (d) conducting site visits to ensure compliance with the provisions of this Title; (e) keeping records of all applications and supporting documentation, and all decisions and permits issued; and (f) recommending regulations for adoption by the Planning Commission consistent with and to implement the provisions of this Title; (g) preparing an annual report to the General Council of Planning Department activities for approval by the Planning Commission, (h) enforcing the provisions of this Title and regulations adopted pursuant to it in accordance with the provisions of this Title; and (i) taking whatever actions are necessary consistent with this Title.

##### **48.03.020 Quinault Planning Commission.**

- (a) There is hereby created a Planning Commission for the Quinault Indian Nation, which shall consist of up to five (5) voting members who shall be appointed by the Business Committee.

- (b) Members shall consist of a representative cross-section of people.
- (c) The members shall be selected without respect to political affiliation and shall serve without compensation except for approved expenses.
- (d) One member shall be a liaison to the Business Committee.

**48.03.030 Term of Office and Voting.**

- (a) Appointed members shall serve a period of three (3) years. Vacancies shall be filled by appointments for the remainder of unexpired terms only. Members may be reappointed by the Business Committee when their terms expire.
- (b) A quorum for a Planning Commission meeting shall be three (3) voting members.

**48.03.040 Removal from Office.**

Should any voting member of the Planning Commission have three (3) unexcused absences from regular, consecutive meetings, the Planning Commission may so inform Business Committee and request removal of this member and appointment of his/her successor.

**48.03.050 Procedures; Meetings; Bylaws.**

The Commission shall elect its own Chairperson Vice-Chairperson, and may elect other officers as it deems necessary. The Commission shall hold at least one (1) regular meeting each month. Meetings shall be open to the public. It shall adopt bylaws for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations.

**48.03.060 Reports to Business Committee.**

The Planning Commission shall report at least quarterly to the Quinault Tribal Business Committee, and annually to the Quinault General Council, at the regular Annual Meeting, concerning the activities and accomplishments of the Planning Commission.

**48.03.70 Planning Commission Purpose, Powers.**

- (a) The purpose of the Planning Commission shall be to oversee the land use aspects of this Title and the Comprehensive Plan as approved by the Business Committee. The Planning Commission shall make recommendations for changes in the Comprehensive Plan, as needed, including complete review every five (5) years. The Commission may make recommendations to the Business Committee for updating this Title, building codes, and proposed land-use projects.
- (b) Commission powers include:
  - (1) Prepare a budget to be approved by the Business Committee for Planning Commission activities.
  - (2) Review land use and development-related codes and recommend revisions to Business Committee.
  - (3) Review Comprehensive Plan and recommend revisions to Business Committee.
  - (4) Adopt regulations recommended by the Department consistent with and to implement the provisions of this Title.



- (5) Recommend a fee schedule to Business Committee for permits authorized by this Title.
- (6) Recommend updates to the Planning Commission Bylaws for approval by the Business Committee.
- (7) Recommend lot assignments/leases for approval by the Business Committee.
- (8) Work with Planning Department staff as budgeted by the Business Committee in carrying out its land-use responsibilities in this Title.

#### **48.04 Zoning.**

##### **48.04.10 Official Zoning Map.**

- (a) The Quinault Indian Reservation is hereby divided into zones as shown on the Official Zoning Map, which is adopted and declared to be a part of this Title. The Official Zoning Map shall be dated and shall include reference to its authorizing Business Committee Resolution.
- (b) The Official Zoning Map, which shall be located in the Quinault Planning Department office, shall be the final authority as to the current zoning status of the land uses allowed on the Reservation. If, in accordance with the provisions of this Title, changes are made in zone boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Business Committee. Planning Department staff shall be responsible for map updates, the originals of which are to be left in the Planning Department office.

##### **48.04.020 Boundary Interpretation.**

Where uncertainty exists as to boundaries of any zone on the Official Zoning Map, the following rules shall apply:

- (a) Zonal boundary lines are intended, and should be construed, to follow lot lines, center lines of streets and alleys, highways, and rights-of-way, the ordinary high water mark of lakes, ponds and water courses, and the ordinary high tide line.
- (b) Where zonal boundaries cross property that is not subdivided into lots, and other provisions herein are not applicable, the location of such boundary line shall be determined by use of the scale of the Official Zoning Map.
- (c) Where boundaries are depicted by topographic variation, the top of the slope as identified on the Official Zoning Map will be the division line, which may divide large single ownership parcels.

#### **48.05 Zones.**

##### **48.05.010 Residential Zone (R)**

- (a) In the Residential Zone, no uses and structures shall be permitted unless for residential purposes or accessory to a residential use. For the purpose of this Title, schools, churches, cemeteries, public buildings and their land uses, apartment houses, and other multiple



dwelling are classified as residential uses. Small shops with a maximum size of 1440 square feet are a conditional use in the Residential Zone, provided that, they do not constitute a nuisance to contiguous residential property. Only one (1) sign meant for viewing from outside the shop is permitted. Such a sign shall be located to conform to the setback requirements for buildings in the Residential Zone, shall not exceed three (3) square feet in size, and shall be in keeping with the residential character of the neighborhood.

- (b) Septic tanks shall not be used in areas with densities exceeding one (1) unit per acre and areas with soils inappropriate for septic systems. The purpose of this zone is to provide single family tracts of 7500 square feet minimum lot size when lots are served by community sewage systems and a rural type development with a minimum lot size of one (1) acre when lots are served by septic tank or other individual systems. All uses and setbacks shall conform to Table 1 and 48.06.020.
- (c) Planned Unit Developments may be permitted to allow a modification of the application of the setback and site development requirements of this Title to encourage flexibility in design and development of land that results in a more efficient and aesthetic use of land.

#### **48.05.020 Commercial Zone (C)**

The purpose of this zone is to provide an open commercial zone for commercial light industrial activities from gas stations and supermarkets to warehousing and light manufacturing. All uses and setbacks shall conform to Table 1 and 48.06.020. Permitted uses include, but are not limited to, grocery stores, drug stores, self-service laundries, general retail and specialty shops, banks, offices, cafes, restaurants, motels, appropriate entertainment and recreation facilities, parks and boat launchings, public buildings, museums, post offices, and police and fire stations. Light auto repair, boat repair and construction, seafood processing and merchandising, arts and crafts and marinas are also classified as commercial activities. Signs shall not obstruct visibility of drivers or pedestrians and shall not project over or onto the public right-of-way. Maximum permitted size of signs is sixty (60) square feet. Exterior lighting shall be arranged so that it is deflected away from and does not cause glare or annoyance to contiguous property or passing street traffic.

#### **48.05.030 Industrial Zone (I)**

The purpose of the Industrial Zone is to provide an exclusive zone for industrial activities that have limited noxious emissions in fumes, particulate matter, waste water, noise or vibrations. Land uses particularly appropriate for this zone include, but are not limited to: light manufacturing involving shake mills, the assembly of small machined parts, research activities and warehousing. Other land uses permitted include log transfers, heavy equipment maintenance, saw mill and other timber product processing. Residential and commercial uses are excluded from this zone, but office facilities of all types are permitted. All uses and setbacks shall conform to Table 1 and 48.06.020.

#### **48.05.040 Forestry Zone (F)**

- (a) The purpose of the Forestry Zone is to allow forestry management and its related activities.
- (b) In the Forestry Zone, no uses and structures shall be permitted unless for forestry uses. For the purpose of this Title, owner's residences and residences of labor employed in the industry

are classified as forestry uses and shall be permitted in the Forestry Zone. Saw and shake mills are conditional uses. All uses and setbacks shall conform with Table 1 and 48.06.020.

#### **48.05.050 Forestry and Industrial Buffer Zone**

- (a) Forestry and industrial uses may have significant impacts at some distance from the actual site where the use occurs. In order to control such impacts, buffer zones are hereby established along the zone boundaries inside of the Forestry and Industrial Zones. The minimum width of the buffer strips shall be 300 feet. Wider strips may be designated where terrain or other conditions increase the distance of potential impacts.
- (b) All forestry and industrial uses within the buffer strips are conditional uses. Permit applications must indicate any possible adverse impacts or permitted uses in the neighboring zones and what steps will be taken to minimize them. The Planning Commission will approve forestry and industrial uses in the buffer strips only when assured there will be no significant adverse impacts on permitted uses in other zones.

#### **48.05.060 Wilderness Zone (W)**

- (a) The purpose of the Wilderness Zone is to retain the natural environment. Individual residences are a conditional use in the Wilderness Zone. No individual residence shall be permitted without full compliance with applicable tribal standards and individual approval by the Quinault Business Committee. The Quinault Planning Commission shall establish standards for building in the Wilderness Zone. Selective logging, where conditions are appropriate, are conditional uses in the Wilderness Zone, provided that the aesthetic and wilderness values of the site can be maintained. The tribal Forestry Department shall make recommendations for each site concerning the appropriateness of the proposed operations and conditions to be imposed to ensure the wilderness values are maintained. The Quinault Planning Commission shall establish minimum standards for conditional use.
- (b) Individual campsites shall be a conditional use in the Wilderness Zone. No campsite shall be used for overnight camping until the requirements of the Sanitation Title have been met. Any campsite upon which a fire is to be built shall have prior approval of the Forestry Division of the Quinault Department of Natural Resources and Economic Development. The Quinault Planning Commission shall establish minimum standards for this conditional use. No subdivision or plat shall be approved within the boundaries of the Wilderness Zone.

#### **48.05.070 Special Temporary Retail**

- (a) From June 17th of each year through and including July 10th of the same year, temporary retail uses, including fireworks stands, food and souvenir concessions shall be permitted uses in the Commercial and Forestry zones, and shall be permitted uses in the Residential Zone with the consent of all contiguous property owners subject to the following conditions. Persons wishing to establish a special temporary retail use shall apply to the Planning Department for a special temporary retail use permit. The application shall include the name of the vendor(s) and landowner(s) and shall be signed by each. The application shall also include a map showing the location of the temporary retail use and shall identify the products which will be sold. For uses in the Residential Zone, the application shall also include the

written consent of all contiguous property owners to the proposed use.

- (b) The Planning Department shall review the application to determine whether the application is complete and whether or not the proposed use will cause a traffic or other safety hazard due to its location. If the application is incomplete or the Planning Department finds that the location of the proposed use will create a traffic or safety hazard the permit shall be denied. Persons denied a permit may appeal to the Business Committee which shall hear the appeal at its next regularly scheduled meeting.
- (c) The setback requirements of this Title are waived for these special temporary uses. The use shall be subject to all other provisions of tribal law including the Business License Title and regulations and tribal health requirements.
- (d) Table 1 of the zoning Title is amended to include special temporary retail as a permitted use subject to the provisions of 48.05.070 in the Forestry, Commercial and Residential zones.

#### **48.05.080 Re-zoning.**

Rezoning may be recommended by the Planning Commission to the Business Committee when a situation cannot be responded to by a variance or conditional use. A rezone shall not be considered for any parcel when such a rezone would constitute spot zoning.

The following procedures apply for re-zoning:

- (a) A person may apply for a re-zone by submitting a re-zone application describing the nature of the re-zone requested and the applicable filing fee.
- (b) The Planning Department will schedule a public hearing before the Planning Commission within sixty (60) days of receipt of a complete application and applicable fee. The tribal legal staff shall outline legal guidelines as requested by the Department or Planning Commission prior to the public hearing.
- (c) Notice of the nature, time and place of the hearing will be published in the *Nugquam* and posted prominently around the Reservation by the Planning Department at least ten (10) business days in advance of the hearing. Notice of the nature, time and place of the hearing will be mailed certified, return receipt requested, or hand delivered by the Planning Department to owners, lessees, and holders of legal interests in contiguous lots and at least ten (10) business days in advance of the hearing.
- (d) Applicant or his/her representative must attend the hearing before the Planning Commission to present the re-zoning application and answer questions concerning the proposed re-zone.
- (e) Any persons may attend the hearing before the Planning Commission and provide any testimony relevant to the re-zoning application.
- (f) After closing the public hearing the Quinault Planning Commission may take action on the request or application or table it for further study or information and further hearing. The action or recommendation must be in the form of a motion and indicate whether it is to deny, approve, or approve with conditions. The motion must also include the findings that enabled the Quinault Planning Commission to reach the decision, and conclusions. The Quinault Planning Commission can adopt the recommended findings and conclusions prepared by staff or amend the recommended findings and conclusions.
- (g) The Planning Commission will make its final decision within ten (10) business days of the final hearing and will mail certified, return receipt requested, or hand deliver the final written

order of the Planning Commission to the applicant within ten (10) business days of the final hearing.

- (h) Appeal of an unfavorable decision may be made by any person aggrieved by the final written order and must be made to the Business Committee within ten (10) business days of the applicant's receipt of the final written order. The decision of the Business Committee is final and not appealable.

**ZONING DISTRICT USE - TABLE I**

**RESIDENTIAL ACTIVITIES**

	<b>RESIDENTIAL</b> <b>L</b>	<b>COMMERCIAL</b> <b>L</b>	<b>INDUSTRIAL</b> <b>L</b>	<b>FORESTRY</b> <b>Y</b>	<b>WILDERNESS</b> <b>S</b>
Single Family Residential	P	P		P	C
Apartment, Townhouse, Multi-Family Dwellings	C	C			
Home Occupations	C	P		P	
Weekend Cabins					C
Mobile Home Parks	PD				
Nursing & Retirement Homes	C	P			

**LEGEND:**

- P = PERMITTED USES  
 PD = PLANNED UNIT DEVELOPMENT  
 C = CONDITIONAL USE  
 A = ACCESSORY USE

**COMMERCIAL ACTIVITIES (Table I - continued)**

	<b>RESIDENTIAL</b>	<b>COMMERCIAL</b>	<b>INDUSTRIAL</b>	<b>FORESTRY</b>	<b>WILDERNESSES</b>
	<b>L</b>	<b>L</b>	<b>L</b>	<b>Y</b>	<b>S</b>
Auto & Boat Parts Sales		P			
Auto & Boat Repair Garage		P	P		
Auto Service Station		P	P		
Bank & Lending Institutions		P			
Day Nurseries	P	P			
Drive-In Businesses		P			
Smoke Shop		P			
Drug Stores		P			
Florists		P			
Grocery Stores		P			
Hardware Stores		P			
Hotels & Motels		P			
Kennels, Commercial	A	P	P		
Marinas		P	P		
Medical Clinics	P	P	A		
Nursery, Landscaping & Floral		P	P		
Offices	PD	P	A		
Temporary Retail		P	P		
Special Temporary Retail	P	P	P	P	
Real Estate & Insurance		P			

Offices					
Restaurants	PD	P	A		
Taverns, General Retail		P			

**INDUSTRIAL ACTIVITIES (Table I - continued)**

	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	FORESTRY	WILDERNESS
Agricultural	P				
Industrial, Heavy (HI)			P		
Industrial, Light (LI)		P	P		
Mineral Extraction			P	C	
Timber Harvesting	A	A	A	P	C
Salvaging and ReLogging				P	P
Warehousing		P	P		
Machinery Rental		P	P		
Shake & Saw Mills			P	C	

**PUBLIC & SEMI-PUBLIC ACTIVITIES (Table I - continued)**

	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	FORESTRY	WILDERNESS
	L	L	L	Y	S
Camping, Commercial & Public				C	C
Churches	P	P			
Commercial Recreation		P		C	
Golf Courses	C	P			
Hospitals, Clinics	P	P	A		
Parks, Recreational	P	P	P	P	P
Quasi- Public Bldg., Non-Profit	PD	P			
Schools	P				

Public Buildings	P	P	P		
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**LEGEND:**

**P = PERMITTED USES**  
**PD = PLANNED UNIT DEVELOPMENT**  
**C = CONDITIONAL USE**  
**A = ACCESSORY USE**

**OTHER ACTIVITIES** (Table I - continued)

	<b>RESIDENTIAL</b>	<b>COMMERCIAL</b>	<b>INDUSTRIAL</b>	<b>FORESTRY</b>	<b>WILDERNESSES</b>
Cemeteries	P				
Garages, Parking	A	P			
Horse Riding Stables					
Public Utility Installations	A	A			
Radio & TV Stations & Towers		P			
Sewage Treatment Plants					

**LEGEND:**

- P = PERMITTED USES  
 PD = PLANNED UNIT DEVELOPMENT  
 C = CONDITIONAL USE  
 A = ACCESSORY USE

**48.05.090 Sensitive Areas.**

The following lands are designated as Sensitive Areas:

- Areas with a critical recharging effect on aquifers used for potable water that are vulnerable to contamination that would affect the potability of the water.
- Areas that because of their susceptibility to erosion, slides, or other geological events, are not suited to siting commercial, residential, or industrial development.
- Habitat areas utilized by a federally-listed threatened or endangered species, and which, if altered, may harm the species.
- Beaches, dunes, and marine bluffs.
- Areas outside of Taholah, Queets and Amanda Park subject to coastal flooding hazards.

The Department shall not issue a permit for any project that may adversely affect the functions and values of any Sensitive Area unless the anticipated adverse affects are mitigated such that the functions and values of the sensitive area are preserved, restored or enhanced. The Department may require an applicant seeking a permit under the terms and provisions of this Title to undertake mitigation designed to preserve, restore or enhance ecological functions and processes, and functions and values of any Sensitive Area affected by the project for which the applicant seeks the permit.



If mitigation is required by the Department, the Department shall require the applicant to mitigate the effects of the project in the following order of preference:

- (a) Avoid the impacts altogether by not taking certain actions or parts of an action;
- (b) Minimize the impacts by limiting the scope of the project, in a manner acceptable to the Department, based on best available science and using appropriate technology or best management practices;
- (c) Repair, restore or enhance the affected Sensitive Areas to properly functioning conditions; or
- (d) Replace, restore or enhance substitute ecological values and functions of Sensitive Areas with equal or higher ecological values.
- (e) Make payment to the Sensitive Areas Protection and Restoration Fund

**48.05.100 Fish Sensitive Area.**

The applicant shall mitigate any impacts of the proposed development on fisheries resources pursuant to a mitigation plan acceptable to the Quinault Division of Natural Resources. An applicant for a project within three hundred (300) feet of the ordinary high water line a surface water body, including river, stream or wetland, or the top of a marine bluff shall submit a Fish Sensitive Areas Report that is acceptable to the Quinault Department of Natural Resources. The Fish Sensitive Areas Report shall be prepared by a fisheries biologist and shall contain each of the following:

- (a) A description of the proposed project;
- (b) A map of the project area and any and all Sensitive Areas and Fish Sensitive Areas within three hundred (300) feet of the project area;
- (c) A description of all species or habitat types for which the Fish Sensitive Area was designated;
- (d) An assessment of any impacts the project may have on the Fish Sensitive Area, species or habitat for which it was designated; and
- (e) A proposal for how to mitigate adverse impacts of the project on the Fish Sensitive Area.

The Quinault Division of Natural Resources shall require the applicant to mitigate the effects of the project in the following order of preference:

- (a) Avoid the impacts altogether by not taking certain actions or parts of an action;
- (b) Minimize the impacts by limiting the scope of the project, in a manner acceptable to the Department, based on best available science and using appropriate technology or best management practices;
- (c) Repair, restore or enhance the affected shorelines and sensitive areas to properly functioning conditions; or
- (d) Replace, restore or enhance substitute ecological values and functions of shorelines or sensitive areas with equal or higher ecological values.
- (e) Make payment to the Sensitive Areas Protection and Restoration Fund

#### **48.06 Site Development Requirements.**

##### **48.06.010 Applicable Building Codes.**

To the extent they are not inconsistent with the provisions of this Title or regulations adopted pursuant to this Title, the following Codes are adopted and incorporated by reference:

- (a) The International Building Code (IBC) (currently applicable version)
- (b) The International Plumbing Code (currently applicable version)
- (c) The International Mechanical Code (currently applicable version).
- (d) The International Fire Code (currently applicable version).
- (e) The National Electrical Code (currently applicable version).
- (f) The Manufactured Housing Construction and Safety Standards (currently applicable version).

In the case of conflict between requirements of these adopted building and other codes and this Title, this Title and any regulations adopted hereunder shall apply.

##### **48.06.020 Addresses.**

All buildings on the Reservation shall obtain a street address approved or assigned by the Department. Address numbers shall be displayed on the front of all buildings and shall be visible from the street they face.

**48.06.030 Building Setbacks.**

	Residential	Commercial		Industrial	Forestry	Wilderness
		Minor	Major			
Min. Lot Area	7,500 sq.ft.	7,500 sq.ft.	20,000 sq.ft.	5 acres	20 acres	N/A
Min. Lot Frontage	75 ft.	75	100 ft.	200 ft.	N/A	N/A
Max. Bldg Height From Mean Ground Line	30 ft.	35	35 ft.	35 ft.	N/A	N/A
Min. Principal Bldg. Setbacks						
Front	25 ft.	20	40 ft.	80 ft.	N/A	N/A
Side	10 ft.	10ft.	N/A	50 ft.	N/A	N/A
Rear	25 ft.	20ft.	N/A	50 ft.	N/A	N/A
Min. Accessory Bldg. Setbacks						
Front	25 ft.	N/A	N/A	N/A	N/A	N/A
Side	10 ft.	N/A	N/A	N/A	N/A	N/A
Rear	5 ft.	N/A	N/A	N/A	N/A	N/A
Max. Lot Coverage	40 %	40	60 %	40 %	N/A	N/A
Off-Street Parking Req.	2 per unit	2 per unit	1 per 200 gr.bld	1 per employee	N/A	N/A

**48.06.040 Off-Street Parking.**

- (a) All parking areas except single family residential shall be surfaced with a minimum of two (2) inches of asphalt or four (4) inches of concrete with parking stalls marked. Crushed rock surfacing may be used on a temporary basis (six (6) months). No part of any street, alley, public right-of-way or property with a different zone than the principal use shall be considered a part of any required off-street parking space.
- (b) No building permits for new construction or remodeling shall be issued for building other than single family residences until a parking plan has been approved by the Planning Commission.

**48.06.050 Required Public Right-of-Way.**

- (a) Minimum standards for new street right-of-way shall be: fifty (50) feet for collector streets, sixty (60) feet for secondary arterials, seventy (70) feet for primary arterials and one hundred fifty (150) feet for major highways. Said standards shall be decreased only upon recommendation of the Planning Commission and approval of the Business Committee.

- (b) Building setbacks shall be measured from the outside edge of right-of-way. No building permit shall be issued where the required right-of-way, as determined by this Title or modified by the Planning Commission, has not been deeded for public use. Existing buildings shall not be rendered non-conforming due to substandard setbacks or lot size when such substandard is the sole result of this Section.

**48.06.060 Driveways**

No driveway shall be located within thirty (30) feet of the intersection of the property line with any traffic intersection.

A single family residential home must have at least one (1) driveway access to the site. This driveway access cannot be shared with any contiguous property.

Shared driveways for any other proposed development must be indicated on the site plan and approved by the Commission.

**48.06.070 Auto Service Station Requirements.**

- (a) The leading edge of the pump island and/or pumps canopy shall be twenty (20) feet or more from any property line.
- (b) Permitted building area/floor area ratio shall be one-half the area allowed for other uses in the respective zone.
- (c) Gas stations in existence at the date of approval of this Title are exempt from the requirements in this section.

**48.06.080 Performance Standards for Non-Agricultural Land-Use.**

- (a) All emissions shall conform to or be more restrictive than the standards of the Olympic Air Pollution Control Authority and other applicable local and federal agencies.
- (b) Any odor or glaring light from normal operation detectable beyond the property boundary is prohibited and ground vibration shall be non-perceptible (without instruments) at any point off the property line except in industrial districts. These odor, light and ground vibration standards shall apply to the industrial district boundary instead of individual property lines.

**48.06.090 Land Classified as Unbuildable.**

- (a) Development of portions of properties having adverse physical and/or legal characteristics is not recommended or allowed by this Title. These characteristics include: 1) Land in excess of twenty-five (25) percent grade; 2) Land that is characterized by a high water table or other water problems, including being prone to flooding; 3) Bodies of water; 4) Portions of land committed to access easement including private and public road right-of-way; and, 5) Properties or portions of properties used by special easements or agreement when such agreements extend for the anticipated lifetime of the proposed development.
- (b) No land use shall be allowed that would constitute a hazard to human life, safety, health, or public welfare due to fire risk, sanitation or other cause.

**48.06.100 Planned Unit Development Standards and Criteria.**

(a) The purpose of this Section is to provide the opportunity for substitution or alteration of the provisions of this Title when the Quinault Tribe is assured of:

- (1) A high quality of development, functionally and aesthetically.
- (2) Compatibility with surrounding land uses, both existing and proposed.
- (3) The availability of adequate public facilities to serve the development.

(b) The application may be processed in conjunction with a rezone on the same property.

(c) Density increases shall be allowed for the use(s) permitted outright in the underlying zoning districts.

(d) All other uses may be developed to the density allowed in the zone where the use is a permitted use.

(e) The following information or documents are required for submission with the request:

- (1) A scale drawing of the property.
- (2) A map showing details of development/pre- and post-project.
- (3) 5 foot contours/pre- and post-project geographic features.
- (4) Public rights-of-way and gradients (information and graphic requirements for pre-application review and application may be obtained at the tribal planning office).
- (5) Utility lines and easements.
- (6) Sewage disposal methods.
- (7) Solid waste disposal methods.
- (8) An analysis of arterial and collector access and egress.
- (9) A detailed landscape plan.
- (10) A description of project phasing.
- (11) A copy of covenants and restrictions to run with the property, if any.
- (12) A list of deviations from standards of this Title, as well as a detailed explanation of how the intent of the standards will be achieved by special design features.
- (13) All drawings shall be certified and/or prepared by an architect or licensed engineer.
- (14) Proof of fire and police protection.

**48.06.110 Planned Unit Development Procedure.**

The following procedures apply for development of a Planned Unit Development:

- (a) A person may apply for a Planned Unit Development by submitting an application describing the nature of the Planned Unit Development requested and the applicable filing fee.
- (b) The Planning Department will schedule a public hearing before the Planning Commission within sixty (60) days of receipt of a complete application and applicable fee. The tribal legal

staff shall outline legal guidelines as requested by the Department or Planning Commission prior to the public hearing.

- (c) Notice of the nature, time and place of the hearing will be published in the *Nugquam* and posted prominently around the Reservation by the Planning Department at least ten (10) business days in advance of the hearing. Notice of the nature, time and place of the hearing will be mailed certified, return receipt requested, or hand delivered by the Planning Department to owners, lessees, and holders of legal interests in contiguous lots and at least ten (10) business days in advance of the hearing.
- (d) Applicant or his/her representative must attend the hearing before the Planning Commission to present the Planned Unit Development application and answer questions concerning the proposed Planned Unit Development.
- (e) Any persons may attend the hearing before the Planning Commission and provide any testimony relevant to the application.
- (f) After closing the public hearing the Quinault Planning Commission may take action on the request or application or table it for further study or information and further hearing. The action or recommendation must be in the form of a motion and indicate whether it is to deny, approve, or approve with conditions. The motion must also include the findings that enabled the Quinault Planning Commission to reach the decision, and conclusions. The Quinault Planning Commission can adopt the recommended findings and conclusions prepared by staff or amend the recommended findings and conclusions.
- (g) The Planning Commission will make its final decision within ten (10) business days of the final hearing and will mail certified, return receipt requested, or hand deliver the final written order of the Planning Commission to the applicant within ten (10) business days of the final hearing.
- (h) Appeal of an unfavorable decision may be made by any person aggrieved by the final written order and must be made to the Business Committee within ten (10) business days of the applicant's receipt of the final written order. The decision of the Business Committee is final and not appealable.

All Planned Unit Developments shall be initiated within six (6) months and completed within three (3) years of receipt of final approval of the project, unless the completion date is extended by the Planning Commission.

#### **48.06.120 Subdivision Requirements.**

The purpose of the subdivision requirements is to further the Comprehensive Plan; protect the public health, safety and general welfare; to secure an appropriate allotment of land in new developments for the requirements of community life; to conserve and restore natural beauty and other natural resources; and, to facilitate the adequate provision of transportation, water, sewage, and other public facilities.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas or propane, electrical, and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

- (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments that contain at least fifty (50) lots or five (5) acres (whichever is less).

These requirements shall apply to all subdivisions as defined by this Title or other divisions of land for the purpose of sale or building development, whether immediate or future. The regulations shall apply in every situation where there is a dedication of streets, alleys, easements, right-of-way, servitudes, restrictive covenants or land for public uses.

Any map, plat, replat or plan hereafter made of any subdivision or any part thereof within the Quinault Reservation shall be presented for approval and be recorded as prescribed. Such description shall not use metes and bounds. Until approved by the Business Committee and filed, these maps or plats have no validity.

#### **48.06.130 Preliminary Plat Application for Approval.**

- (a) For the purpose of expediting the final approval of any plat, the subdivider shall make application for approval of a preliminary plat to the Planning Commission, at the tribal office of the land use planner, in accordance with criteria provided by the planning staff. The subdivider shall submit ten (10) copies of the preliminary plat
- (b) Upon receiving an application for preliminary plat approval, the planning staff shall set the date of a public hearing.

#### **48.06.140 Preliminary Plat Requirements.**

The scale of the preliminary plat shall be not less than fifty (50) feet or more than two hundred (200) feet to the inch and shall contain information specified below. The preliminary plat shall be certified by a licensed surveyor.

The preliminary plat shall show the following features and information:

- (a) The name of the proposed plat, subdivision or dedication.
- (b) A legal description of all lands included in the proposed plat, subdivision, or dedication, together with a current title report showing clear title in the developer.
- (c) The preliminary plat map and the map or maps of existing conditions shall be approved and stamped by a registered engineer or licensed surveyor.
- (d) Existing monuments and markers.
- (e) The boundary lines of the tract to be subdivided.
- (f) Location, width and names of all existing or platted streets or other public ways within the proposed development and other important features, including but not limited to, the general outline of permanent buildings, water courses, power lines, telephone lines, railroad lines, municipal boundaries, township lines and section lines.
- (g) The general location and size of existing sewers, water mains, culverts, and other underground installations within the tract and immediately contiguous thereto, as far as can be determined.
- (h) Contours of sufficient interval to show the topography of the entire tract, unless specifically

waived by the planning staff.

- (i) The layout of proposed street right-of-way lines, alley and easement lines, and approximate dimensions of lots and blocks.
- (j) Tentative grades of each street.
- (k) All the parcels of land intended to be dedicated or temporarily reserved for public use or to be reserved in the deed for the common use of the property owners in the subdivision. The purpose, conditions or limitations of such dedications or reservations shall be clearly indicated.
- (l) The indication of any portion or portions of the plat for which successive or separate final plats are to be filed.
- (m) A vicinity sketch indicating the boundary lines and names and addresses of owners of record or property within three hundred (300) feet of contiguous subdivisions, streets and tract lines of contiguous parcels, and the relationship of the proposed plat to major highways, schools, parks, shopping centers, and similar facilities.
- (n) Two copies of the proposed restrictive covenants.

#### **48.06.150 Preliminary Plat Approval.**

The Commission shall consider the preliminary plat within sixty (60) days. If the Commission finds that the preliminary plat is in a location that is reasonably safe from flooding, makes appropriate provision for streets, parks, sites for schools and other facilities, in furtherance of the Comprehensive Plan, and that the public interest will be served, the Planning Commission may approve the preliminary plat outright or conditionally, and submit their recommendations to the Business Committee which shall act in sixty (60) days. Where approval is denied, such notice shall set forth the reasons for denial. The approval of a preliminary plat shall not guarantee final approval of the plat or subdivision nor constitute an acceptance of the subdivision. Approval shall be authorization to proceed with the preparation of the final plat along the lines indicated in the approval of the preliminary plat.

#### **48.06.160 Final Plat Approval.**

The final plat procedure and requirements shall be the same as the preliminary plat procedure with the following additions:

- (a) For purpose of filing the final plat, the subdivider shall submit to the land use planner an original final plat tracing and six (6) dark line prints thereof. Each subdivision shall be accompanied by a certificate of title, dated not to exceed thirty (30) days prior to submitting a plat for final approval, showing the names of all persons, firms or corporations whose consent is necessary to dedicate road, street and other easements shown upon said map. The planner shall examine the plat for compliance with the provisions of this Title. If the final plat is deemed to be in correct form and to contain the required information, two (2) copies of the plat drawing shall be certified by the land use planner.
- (b) At the time the subdivider presents the final map to the land use planner, there shall be presented certificates executed respectively by the public utility companies certifying that satisfactory provisions have been made with each of said public utility companies as to location of their facilities and that easements, where required by such companies, have been



provided. Easements for public utilities shall be clearly designated on the final map. Dedications of all streets, highways and parcels of land shown on the final map and intended for any public use shall be offered for dedication by the Quinault Nation for public use.

The minimum improvements which the subdivider will be required to make or enter into an agreement to make prior to the acceptance and approval of the final plat shall be:

- (1) Adequate grading and surfacing of streets, highways, ways, and alleys, as per minimum standards established by the Planning Commission.
- (2) Adequate drainage of the subdivision streets, highways, ways and alleys.
- (3) Monuments (minimum of three (3) feet from pipe) approved by the land use planner.
- (4) Other improvements may be required under circumstances cited in the Planning Commission action.
- (5) All improvements shall be installed to approved grades.
- (6) Plans, profiles and specifications of proposed improvements shall be furnished at the time of submitting a plat for final approval. Submission shall be to the Planning Commission.

Construction shall conform to tribal standards.

#### **48.06.170 Existing Plats.**

- (a) Every existing purported plat or subdivision which would be subject to the provisions of this Title if said plat or subdivision were proposed after the date of enactment of this Title is hereby declared to be an illegal, void, invalid and unapproved plat or subdivision, provided that, the Plat of the Indian Village of Taholah and the Plat of the Indian Village of Queets, as on record with the Portland Area Office or the Everett Indian Agency of the Bureau of Indian Affairs shall not be subject to this decision.
- (b) All existing plats or subdivisions subject to this Title and subject to paragraph (a) hereof shall be submitted for preliminary plat approval under this Title. Any plat or subdivision which shall fail to receive preliminary plat approval within one hundred and twenty (120) days of the enactment of this Title shall become an illegal, void, invalid, and unapproved plat or subdivision.
- (c) All existing plats or subdivisions subject to this Title and subject to paragraph (a) hereof shall be submitted for final plat approval within one hundred and eighty (180) days of the date of enactment of this Title. Any plat or subdivision which shall fail to receive final plat approval within two hundred and forty (240) days of the enactment of this Title shall become an illegal, void, invalid, and unapproved plat or subdivision.
- (d) Special rule for plats submitted after the effective date of this Title: Except as provided in paragraphs (b) and (c) herein, no proposed plat or subdivision which shall be submitted for approval after the effective date of this Title shall be approved if any part of said proposed plat or subdivision shall be within the boundaries of the Wilderness Zone as established herein.

#### **48.07 Permit and Application Process.**

All proposed development, as defined in this Title, within the exterior boundaries of the Reservation requires submittal of a Master Land Use Application, a Stormwater Management Plan, and a pre-application conference with the Land Use Planner and other Nation staff as the Director or Director's designee deems necessary, to discuss the Master Land Use Application and required permits. No applications shall be approved under this Title unless the applicant demonstrates compliance with all Quinault Tribal Codes and regulations adopted thereunder.

#### **48.07.010 Building Permits.**

Building Permits must be obtained from the Department for all construction activities, including new stick-built structures, manufactured, modular, and mobile homes, whether for permanent or temporary use; repairs or additions of any size; demolition of buildings or structures; fences, decks, and signs. The Building Inspector or Director or Director's designee may issue a Building Permit upon review of a complete application and supporting materials, and the applicant provides evidence of a safe and reliable supply of potable water for the intended use of the structure, and evidence of the compliance with the wastewater disposal requirements in Title 60.

The Floodplain Administrator or Director or Director's designee will determine the proposed development, including placement of a manufactured home, will be reasonably safe from flooding, and whether a variance under Section 48.08 of this Title is warranted. When base flood elevation data is not available, the Building Inspector, Director or Director's designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, and other sources such as from High Water Marks of Record for flood-prone areas. When base flood elevation data or High Water Marks of Record are provided, obtain and record the actual elevation of the lowest floor of all structures; and if applicable, elevation to which any non-residential structure has been flood-proofed.

Each application for a building permit shall be accompanied by:

- (a) applicable fees;
- (b) stamped, engineered building plans drawn to scale;
- (c) a site plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building(s), structure(s), and/or accessory building(s)/structure(s) to be erected;
- (d) legal description, including lot boundaries;
- (e) name(s) of owners and/or persons with any legal interest in the lot;
- (f) proof of land ownership or legal use;
- (g) other applicable Quinault permits or licenses (business license for contractor(s), natural resources application approved, burn permit, etc.);
- (h) demonstration of lawful access to lot; and
- (i) such additional information as required by the Director or Director's designee.

No permit shall be issued unless there is demonstration by the applicant of compliance with all Quinault Nation Titles and regulations.

#### **48.07.020 Travel Trailer and Motor Home Permits.**

Travel Trailers and Motor Homes may be occupied in any area for a designated period not to exceed sixty (60) continuous days. A Permit to locate and occupy a Travel Trailer or Motor Home must be obtained prior to occupancy of the Travel Trailer or Motor Home for more than twenty-four (24) hours. Such Permit may be renewed once for an additional sixty (60) continuous days but in no event shall such use or occupancy be allowed for more than one hundred twenty (120) days in any twelve- (12-) month period. The Building Inspector or the Director or Director's designee may issue a Travel Trailer or Motor Home Permit upon review of a complete application and application fee.

An unoccupied Travel Trailer and/or Motor Home may be stored on any owned or leased property, without a permit, provided that such Travel Trailer or Motor Home is not the principal or only structure on the property and that the principal structure complies with all applicable Quinault Indian Nation land use and building laws and regulation.

#### **48.07.030 Stormwater Management.**

- (a) No application for development will be approved unless it includes a stormwater management plan detailing how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by a licensed engineer and must include the following information and any other information deemed necessary by the Department:
- (1) Background information and computations for sizing drainage facilities:
    - (i.) A topographical map or maps, on a scale of one (1) inch equals fifty (50) feet with five foot contours, which depicts the following information:
      - (A) All natural drainage channels and patterns within or adjacent to the development and other existing drainage features and drainage easements.
      - (B) The point(s) where the drainage from upstream properties currently enter(s) the property.
      - (C) The point(s) where drainage is discharged downstream from the property and the receiving waters (the receiving waters need not be indicated on a map, but may be noted in writing).
      - (D) The proposed development of the area and the estimated impervious surfaces.
    - (ii.) The measured area of the site (indicating both square footage and acreage), the estimated density, the estimated measured area of the site (indicating both square footage and acreage) proposed for coverage by impervious surfaces given the proposed level of development.
    - (iii.) An estimate of the peak discharge and amount of surface water entering and leaving the subject property in its uncleared natural state as a result of the twenty-five (25) year storm of twenty four (24) hours duration (the design storm).
    - (iv.) An estimate of the peak discharge and the amount of runoff entering and within the subject property that will be generated by the design storm given the proposed level of development.)
    - (v.) Proposed improvements for handling the computed drainage runoff.

- (vi.) A brief description of the system's specifications and the proposed receiving waters.
  - (vii.) Arrangements by the permittee to provide for continuing maintenance of the drainage facilities.
- (b) General Requirements.
- (1) Surface water, both existing and potential, entering the subject property shall be received at the naturally occurring location and surface water existing on or flowing through the subject property shall be discharged at the natural location with adequate energy dissipators within the subject property to minimize downstream damage and with no diversion at any of these points.
  - (2) The peak discharge and peak runoff volume (from both surface and subsurface sources) for the subject property resulting from the design storm shall not be increased above the levels generated on the property in its uncleared, natural state due to the proposed development.
  - (3) Retention/detention facilities shall be provided in order to handle all surface water in excess of the peak discharge of the property in its uncleared, natural state resulting from the design storm. The facilities shall be designed to prevent aggravation of any potential downstream peaking conditions.
  - (4) Lots shall be laid out so as to provide positive drainage away from all buildings.
  - (5) When a closed system is used to handle discharge within the tract, all structures will be a minimum of ten (10) feet from the closed systems.
  - (6) Storm water facilities shall be designed and built in such a manner that the outlet structures are easily accessible for inspection, testing, and long-term maintenance.

#### **48.07.040 Non-Conforming Use.**

If a lawful use of land or structure that exists at the effective date or amendment of this Title could not occur or be built under the requirements of this Title, it is considered a non-conforming use. It is the intent of this Title to permit these non-conformities and may remain as long as it is otherwise lawful subject to the following:

- (a) A non-conforming use shall not be enlarged, extended, reconstructed, moved, or altered in any way to increase its non-conformity.
- (b) A non-conforming use shall be deemed abandoned if it is discontinued or abandoned for a continuous period of six (6) months and shall not be reconstructed except in conformity with the requirements of this Title.
- (c) If any non-conforming use is destroyed by any means it shall not be reconstructed except in conformity with the requirements of this Title.

#### **48.08 Flood Hazard Reduction.**

##### **48.08.010 Purpose.**

It is the purpose of this section to promote the public health, safety, and general areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains or propane tanks, electric, telephone and sewer lines, streets, and bridges located in flood-prone areas;
- (6) To ensure that potential buyers and lessors are notified that property is in a flood-prone area; and,
- (7) To ensure that those who occupy the flood-prone area assume responsibility for their actions.
- (8) To protect Tribal resources.

#### **48.08.020 Administration.**

This Section 48.08, Flood Hazard Reduction, is administered by the Quinault Indian Nation's Floodplain Administrator, or the Director or Director's designee.

#### **48.08.030 General Standards.**

In all flood-prone areas, the following general standards apply:

##### **(a) Anchoring**

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage per the latest accepted Quinault Indian Nation Building Codes.

##### **(b) Construction Materials and Methods**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

##### **(c) Utilities**

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) Water wells shall be located on high ground
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters and according to the Nation's Title 60 and regulations promulgated thereunder; and,

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **48.08.040 Specific Standards.**

In all areas of special flood hazards where base flood elevation data has been provided or in flood-prone areas, the following specific provisions apply:

##### **(a) Residential Construction**

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the High Water Mark of Record (or base flood elevation, if determined).
- (2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters, and be used solely for parking of vehicles, building access or storage in an area other than a basement. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (i.) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (ii.) The bottom of all openings shall be no higher than one foot above grade;
  - (iii.) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and,
  - (iv.) FEMA's Technical Bulletin 11-01 provides additional required standards for crawlspace construction.

##### **(b) Nonresidential Construction**

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the High Water Mark of Record (or base flood elevation, if determined); or, together with attendant utility and sanitary facilities, shall:
  - (i.) be flood-proofed so that below the High Water Mark of Record (base flood level, if determined) the structure is watertight with walls substantially impermeable to the passage of water;
  - (ii.) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
  - (iii.) be certified by a licensed professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Department.
- (2) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards as for residential structures for space below the lowest floor.
- (3) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level, if determined, will be rated one foot below that level).

**(c) Manufactured Homes**

- (1) All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the High Water Mark of Record (or base flood elevation, if determined) and be securely anchored to an adequately anchored foundation system.

**(d) Recreational Vehicles**

- (1) Recreational vehicles must:
  - (i.) Be on the site for fewer than one hundred eighty (180) consecutive days,
  - (ii.) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - (iii.) Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.

**(e) Critical Facility**

- (1) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the flood-prone area [or a Special Flood Hazard Area (SFHA) (100-year floodplain), if determined]. Construction of new critical facilities shall be permissible within the flood-prone area (SFHA) if no feasible alternative site is available. Critical facilities constructed within the flood-prone area (SFHA) shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**48.08.50 Variances to Flood Hazard Standards.**

**(a) Conditions for Variances**

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination by the Floodplain Administrator or Director or Director's designee that the variance is the minimum necessary, considering the flood hazard, to accomplish the hazard reduction.
- (4) Variances shall only be issued upon:
  - (i.) A showing of good and sufficient cause;
  - (ii.) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (5) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public.

- (6) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood-proofing, where it can be determined that such action will have low damage potential and otherwise complies with Section 48.08.020 General Standards.
- (7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (b) In approving a request for variance and requiring any conditions to the variance approved, the Director or Director's designee shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Title, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas or propane, electrical, and water systems, and streets and bridges.

#### **48.09 Permit Exceptions.**

##### **48.09.010 Variance.**

A variance is a departure from the provisions of this Title for special circumstances related to a specific lot, when strict application of this Title would cause an undue or unnecessary hardship, or would otherwise be unreasonable or impractical. There will be no variances allowed for development in areas that are prone to flooding except as provided in Section 48.08.

The Planning Commission may grant a variance and may impose any conditions on said variance, if it determines each of the following criteria are met:

- (a) The proposed variance will not amount to a rezone of the boundaries shown on the Official Zoning Map and does not allow a use that is prohibited in the zone in which the subject property is located.
- (b) Special conditions and circumstances exist that are peculiar to the land, such as size, shape,



or topography of a parcel, or location of a legal structure on a parcel, not applicable to other lands in the same zone, and that literal interpretation of the provisions of this Title would deprive the property owner of uses commonly enjoyed by other properties with conforming uses in the vicinity and in the same zone.

- (c) The special conditions and circumstances do not result from the actions of the applicant.
- (d) Granting a variance requested will not alter the essential character of the locality or confer a benefit to the subject property that is denied other parcels in the same zone.
- (e) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

The following procedures apply for variances:

- (a) A person may apply for a variance by submitting a variance application describing the nature of the variance requested and how the criteria herein will be met, and the applicable filing fee.
- (b) The Planning Department will schedule a public hearing before the Planning Commission within sixty (60) days of receipt of a complete application and applicable fee. The tribal legal staff shall outline legal guidelines as requested by the Department or Planning Commission prior to the public hearing.
- (c) Notice of the nature, time and place of the hearing will be published in the *Nugquam* and posted prominently around the Reservation by the Planning Department at least ten (10) business days in advance of the hearing. Notice of the nature, time and place of the hearing will be mailed certified, return receipt requested, or hand delivered by the Planning Department to owners, lessees, and holders of legal interests in contiguous lots and at least ten (10) business days in advance of the hearing.
- (d) Applicant or his/her representative must attend the hearing before the Planning Commission to present the variance application and answer questions concerning the proposed variance.
- (e) Any persons may attend the hearing before the Planning Commission and provide any testimony relevant to the application.
- (f) After closing the public hearing the Quinault Planning Commission may take action on the request or application or table it for further study or information and further hearing. The action or recommendation must be in the form of a motion and indicate whether it is to deny, approve, or approve with conditions. The motion must also include the findings that enabled the Quinault Planning Commission to reach the decision, and conclusions. The Quinault Planning Commission can adopt the recommended findings and conclusions prepared by staff or amend the recommended findings and conclusions.
- (g) The Planning Commission will make its final decision within ten (10) business days of the final hearing and will mail certified, return receipt requested, or hand deliver the final written order of the Planning Commission to the applicant within ten (10) business days of the final hearing.
- (h) Appeal of an unfavorable decision may be made by any person aggrieved by the final written order and must be made to the Business Committee within ten (10) business days of the applicant's receipt of the final written order. The decision of the Business Committee is final and not appealable.

A variance granted under this Title is effective when exercised within six (6) months from the effective date of the grant by the Planning Commission, unless a longer period is specified by the Commission. In such case a variance is not exercised, it shall become void.

#### **48.09.020 Conditional Use.**

A conditional use is a use identified in this Title that needs case-by-case consideration because it may be incompatible with the principal permitted uses in the various zones. The Conditional Use Permit application shall accompany the application for a Building Permit. Only those uses contained in "Table I" will be considered, and only for the zone indicated.

The Planning Commission may grant a Conditional Use Permit, and may impose any conditions on said Permit, if it determines each of the following criteria are met:

- (a) The use shall not endanger the public health or safety if located where proposed, and the use will not allow conditions that will tend to generate nuisance conditions such as noise, dust, glare, vibration, (construction noise, dust and vibration excepted).
- (b) The use meets all requirements of this Title and regulations adopted pursuant to this Title where it is proposed to be located.
- (c) The use shall not be injurious or detrimental to contiguous property, unless the use is a public necessity, in which case specific steps shall be taken to lessen the detrimental impacts.
- (d) Multi-family dwellings shall only be permitted if the following provisions and conditions are met:
  - (1) Off-street parking to be provided in the amount of two (2) off-street parking spaces per dwelling unit.
  - (2) Setbacks shall conform to the requirements of the underlying zone.
  - (3) Accessory buildings shall comply with the setback requirements of the main building.

The following procedures apply for a Conditional Use Permit:

- (a) A person may apply for a Conditional Use Permit by submitting a Conditional Use Permit application describing the nature of the Conditional Use requested and how the criteria herein will be met, and the applicable filing fee.
- (b) The Planning Department will schedule a public hearing before the Planning Commission within sixty (60) days of receipt of a complete application and applicable fee. The tribal legal staff shall outline legal guidelines as requested by the Department or Planning Commission prior to the public hearing.
- (c) Notice of the nature, time and place of the hearing will be published in the *Nugquam* and posted prominently around the Reservation by the Planning Department at least ten (10) business days in advance of the hearing. Notice of the nature, time and place of the hearing will be mailed certified, return receipt requested, or hand delivered by the Planning Department to owners, lessees, and holders of legal interests in contiguous lots and at least ten (10) business days in advance of the hearing.

- (d) Applicant or his/her representative must attend the hearing before the Planning Commission to present the Conditional Use Permit application and answer questions concerning the proposed Conditional Use.
- (e) Any persons may attend the hearing before the Planning Commission and provide any testimony relevant to the application.
- (f) After closing the public hearing the Quinault Planning Commission may take action on the request or application or table it for further study or information and further hearing. The action or recommendation must be in the form of a motion and indicate whether it is to deny, approve, or approve with conditions. The motion must also include the findings that enabled the Quinault Planning Commission to reach the decision, and conclusions. The Quinault Planning Commission can adopt the recommended findings and conclusions prepared by staff or amend the recommended findings and conclusions.
- (g) The Planning Commission will make its final decision within ten (10) business days of the final hearing and will mail certified, return receipt requested, or hand deliver the final written order of the Planning Commission to the applicant within ten (10) business days of the final hearing.
- (h) Appeal of an unfavorable decision may be made by any person aggrieved by the final written order and must be made to the Business Committee within ten (10) business days of the applicant's receipt of the final written order. The decision of the Business Committee is final and not appealable.

A Conditional Use Permit granted under this Title is effective when exercised within six (6) months from the effective date of the grant by the Planning Commission, unless a longer period is specified by the Commission. In such case a Conditional Use Permit is not exercised, it shall become void.

#### **48.09.030 Special Use Permits**

A Special Use is a land use that would otherwise not be allowed under this Title. The Planning Commission may grant a Special Use Permit on a case-by-case basis, and may impose any conditions on said Permit, if it determines each of the following criteria are met:

- (a) There are special circumstances or conditions affecting the land, building, or use referred to in an application that do not qualify for a variance or conditional use permit;
- (b) Granting a Special Use Permit will not be materially detrimental to the public welfare, or injurious to the property or persons living contiguous to or in the vicinity of the property to which an application pertains;
- (c) Granting a Special Use Permit will maintain the spirit and intent of this Title, is consistent with the Nation's traditional uses and culture, will not impede the normal and orderly development and improvement of the surrounding property for uses allowed under this Title, and will not impair the protection of natural and cultural resources.

The following procedures apply for a Special Use Permit:

- (a) A person may apply for a Special Use Permit by submitting a Special Use Permit application describing the nature of the Special Use requested and the applicable filing fee.

- (b) The Planning Department will schedule a public hearing before the Planning Commission within sixty (60) days of receipt of a complete application and applicable fee. The tribal legal staff shall outline legal guidelines as requested by the Department or Planning Commission prior to the public hearing.
- (c) Notice of the nature, time and place of the hearing will be published in the *Nugquam* and posted prominently around the Reservation by the Planning Department at least ten (10) business days in advance of the hearing. Notice of the nature, time and place of the hearing will be mailed certified, return receipt requested, or hand delivered by the Planning Department to owners, lessees, and holders of legal interests in contiguous lots and at least ten (10) business days in advance of the hearing.
- (d) Applicant or his/her representative must attend the hearing before the Planning Commission to present the Special Use Permit application and answer questions concerning the proposed Special Use.
- (e) Any persons may attend the hearing before the Planning Commission and provide any testimony relevant to the application.
- (f) After closing the public hearing the Quinault Planning Commission may take action on the request or application or table it for further study or information and further hearing. The action or recommendation must be in the form of a motion and indicate whether it is to deny, approve, or approve with conditions. The motion must also include the findings that enabled the Quinault Planning Commission to reach the decision, and conclusions. The Quinault Planning Commission can adopt the recommended findings and conclusions prepared by staff or amend the recommended findings and conclusions.
- (g) The Planning Commission will make its final decision within ten (10) business days of the final hearing and will mail certified, return receipt requested, or hand deliver the final written order of the Planning Commission to the applicant within ten (10) business days of the final hearing.
- (h) Appeal of an unfavorable decision may be made by any person aggrieved by the final written order and must be made to the Quinault Business Committee within ten (10) business days of the applicant's receipt of the final written order. The decision of the Business Committee is final and not appealable.

A Special Use Permit granted under this Title is effective when exercised within six (6) months from the effective date of the grant by the Planning Commission, unless a longer period is specified by the Commission. In such case a Special Use Permit is not exercised, it shall become void.

#### **48.09.040 Permit Fees.**

Permit fees shall be established by the Quinault Business Committee upon recommendation of the Quinault Planning Commission. Tribal elders shall be entitled to waiver of all fees authorized under this Title upon providing verifiable proof of age.

#### **48.10 Enforcement**

##### **48.10.010 General Authority to Enforce.**

It shall be the duty of the Department to enforce the provisions of this Title. Failure to enforce this Title does not authorize or waive any violation of any provision of this Title or any regulation adopted pursuant to this Title. The Department may call upon law enforcement, fire, health, or other appropriate Quinault departments to assist in enforcement.

**48.10.020 Right of Entry.**

Employees, contractors and agents of the Nation may enter any Reservation lands at reasonable times and in a reasonable manner to inspect them for compliance with this Title and regulations adopted pursuant to this Title. Inspections of buildings on the Reservation shall be made at mutually convenient times for Department staff and the permittee. Application for any land use permit or any other land use activities constitutes consent to on-site inspection of permittee's property for the purpose of assessing compliance with this Title and regulations adopted pursuant to this Title.

**48.10.030 Notice of Voluntary Correction.**

Whenever the Director or Director's designee has reason to believe that a violation of this Title or regulations adopted pursuant to this Title has occurred, the Director or Director's designee may serve a written Notice of Voluntary Correction on the violator in the manner directed in this Section. In the event that the violator does not take corrective action as outlined in the Notice of Voluntary Correction, the Director or Director's designee shall issue a Notice of Violation.

**48.10.040 Contents of Notice of Voluntary Correction.**

The Notice of Voluntary Correction shall contain a brief and concise description of the alleged violation and the provision of this Title or regulations adopted pursuant to this Title alleged to have been violated. The Notice of Voluntary Correction shall state that continued or subsequent violation may result in further civil enforcement actions, as provided in this Title, to include monetary civil penalties. The Notice of Voluntary Correction shall contain a statement of the corrective action required and shall specify a reasonable date and time within which the corrective action must be accomplished.

**48.10.050 Service of Notice of Voluntary Correction.**

The Notice of Voluntary Correction shall be personally served on the alleged violator, if reasonably possible. If personal service is not reasonably possible, the Notice of Voluntary Correction shall be posted on the parcel associated with the violation and mailed to the alleged violator by certified mail, return receipt requested. The failure of any such person to receive the actual Notice of Voluntary Correction shall not affect the validity of any proceedings taken under this Title. The voluntary correction process is optional as deemed by the Director. If the Director or Director's designee believes that the requirements of this Section are not being met, the Director or Director's designee may, in addition to the Notice of Voluntary Correction, issue a Stop Work Order.

**48.10.060 Extension for Compliance.**

- (a) Upon good cause shown by the alleged violator, the Director or Director's designee may grant an extension from the operation of this Title in order to allow the alleged violator to take corrective action as outlined in the Notice of Voluntary Correction not to exceed thirty (30) days. Such extension may be renewed at the discretion of the Director or Director's designee for an additional thirty (30) days, but only if satisfactory progress toward compliance is shown.
- (b) Any person seeking an extension shall file an application with the Director on forms provided by the Department. Any such request for an extension must be received by the Director at least five (5) business days prior to the date set for compliance in the Notice of Voluntary Correction.
- (c) In granting or denying an extension of the date set for compliance, the Director or Director's designee shall file a written order stating the facts and reasons leading to the decision, which is due no later than the date set for compliance in the Notice of Voluntary Correction.
- (d) A request for an extension shall not in any manner preclude the alleged violator from seeking any other relief available under Tribal law.

**48.10.070 Stop Work Order.**

Whenever a continuing violation of this Title or any regulations adopted pursuant to this Title will:

- (a) materially impair the Department's ability to secure compliance; or
- (b) threaten the health or safety of the public; or
- (c) threaten or harm natural resources,

The Director or Director's designee may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. The Order shall be posted on the subject property, and if possible, shall be served in person on persons engaged in any work in violation of this Title. No further work or activity shall proceed unless and until authorized by the Director or Director's designee in writing. Failure to comply with a Stop Work Order shall constitute a violation of this Title.

**48.10.080 Notice of Violation.**

In the event the alleged violator fails to take corrective action according to a properly served Notice of Voluntary Correction, or when the Director or Director's designee believes that a violation can only be promptly and equitably corrected by an immediate Notice of Violation, the Director or Director's designee may issue the alleged violator a Notice of Violation.

**48.10.090 Contents of Notice of Violation.**

For violations of this Title or regulations adopted pursuant to this Title, the Notice of Violation shall contain the following information:

- (a) The name and address of the alleged violator;
- (b) The street address or a description sufficient for identification of the property where the alleged violation occurred;
- (c) A brief statement describing the act and/or omission alleging a violation of this Title;
- (d) A statement that if any work is not completed within the times specified, the Director or Director's designee will proceed to cause abatement of the violation and cause the work to be done and charge costs as a lien against the property, if applicable;
- (e) A statement that a monetary penalty of no more than three hundred dollars (\$300.00) per day for each violation shall be assessed against the alleged violator(s);
- (f) A statement that if any assessed civil penalty is not paid, the Director will charge the amount of the penalty as a lien against the property, if applicable, and as a personal obligation of any person in violation of this Title or regulations adopted pursuant to this Title;
- (g) A statement regarding how the alleged violator shall respond, as outlined in this Section, and that such Response shall be filed with the Quinault Tribal Court and a copy served upon the Quinault Indian Nation Office of Reservation Attorney within thirty (30) calendar days of service of the Notice of Violation; and
- (h) A description of the available appeal process.

#### **48.10.100 Service of Notice of Violation.**

A copy of the Notice of Violation shall be served in the same manner as service of the Notice of Voluntary Correction outlined in this Section. The original Notice of Violation shall be filed with the Quinault Tribal Court Clerk and a copy shall be served on the Quinault Indian Nation Office of Reservation Attorney. The failure of any such person to receive the actual Notice of Violation shall not affect the validity of any proceedings taken under this Title.

#### **48.10.110 Appeal of Notice of Violation.**

The Notice of Violation may be appealed within fourteen (14) calendar days from the date of the Notice of Violation to the Quinault Tribal Court, pursuant to the provisions of Q.T.C. 30. Any per-day civil penalty shall not accrue during the pendency of such administrative appeal, unless the Quinault Tribal Court determines that the appeal is frivolous or intended solely to delay compliance. Failure to file a timely and complete appeal will constitute a waiver of all rights to an appeal of the Notice of Violation.

#### **48.10.120 Hearings.**

- (a) Commencement of Proceedings. The filing of the Notice of Violation shall serve as an initial summons and complaint in Quinault Tribal Court.
- (b) Response. Each person issued a Notice of Violation under this Title shall return a copy of the Notice of Violation within fourteen (14) calendar days to the Quinault Tribal Court. The person issued the Notice of Violation shall check either:

☐ 1. I CHOOSE TO PAY THE MONETARY PENALTY AND HAVE ENCLOSED FULL PAYMENT.

☐ 2. I REQUEST A HEARING TO EXPLAIN THE CIRCUMSTANCES. If a person requests a hearing, the Court shall issue a Notice of Hearing with a date and time certain.

☐ 3. I REQUEST A HEARING TO CONTEST THIS VIOLATION NOTICE.

- (c) Timeline for Hearing. Upon the timely filing of a response, the Quinault Tribal Court shall set a hearing within thirty (30) calendar days, which may be continued for good cause. In the event a hearing is not set within thirty (30) days, the Notice of Violation shall be dismissed. A party may appear for a hearing by telephone with prior approval of the Quinault Tribal Court.
- (d) Conduct at the Hearing. Hearings shall be governed by Q.T.C. 30.
- (e) Order on Hearing. Following the conclusion of the hearing, the Court shall issue a written decision. The decision shall state the findings of fact, conclusions of law, and order. The order shall include any and all costs as deemed appropriate by the Court.
- (f) Appeals. Should either party be unsatisfied with the result, that party may commence an appeal with the Quinault Tribal Court of Appeals pursuant to Q.T.C. 31.

#### **48.10.130 Penalties.**

Unless otherwise provided, each act of violation and every day on which such violation occurs shall be a separate violation subject to penalty assessment. A violation of this Title or regulations adopted pursuant to this Title are subject to a fine of not more than three hundred dollars (\$300.00) per day.

#### **48.10.140 Complaints from the Public.**

Whenever a violation of this Title or regulations adopted pursuant to this Title occurs or is alleged to have occurred, any person may file a written complaint with the Director or Director's designee. Such complaint shall state fully the basis thereof. The complaining party shall provide an address and phone number to enable the Director or his/her designee to contact the complaining party about the written complaint. The Director or his/her designee shall properly record such complaint, investigate as soon as reasonably practicable, and take any necessary action thereon as provided by this Title.

#### **48.11 Miscellaneous.**

##### **48.11.010 Severability.**

If any section, subsection, sentence, clause or phrase of this Title is, for any reason, held to be invalid, in general or in any specific application, such decision shall not affect the validity of the remaining parts of this Title or the specific application of this Title.





# Quinault Indian Nation

POST OFFICE BOX 189 • TAHOLAH, WASHINGTON 98587 • TELEPHONE (360) 276-8211

## QUINAULT BUSINESS COMMITTEE

RESOLUTION NO. 11-105-90

WHEREAS, the Quinault Business Committee is the recognized governing body of the Quinault Indian Nation under the authority of the Quinault Indian Nation's Constitution adopted by the Quinault General Council on March 22<sup>nd</sup>, 1975; and

WHEREAS, the Constitution of the Quinault Indian Nation authorizes the Quinault Business Committee to adopt codes; and

WHEREAS, the Business Committee directed the updating of its Titles 48 (Zoning) and 50 (Building & Manufactured Homes); and

WHEREAS, Nation staff re-drafted Titles 48 and 50 into a single Title 48 Land Use Development Code and held public hearings in accordance with the Code Enactment Policy;

NOW THEREFORE, BE IT RESOLVED, that the Quinault Business Committee approves the attached Title 48 Land Use Development Code and repeals Titles 48 (Zoning) and 50 (Building & Manufactured Homes).

Fawn R. Sharp, President  
Quinault Indian Nation

### CERTIFICATION

As Secretary of the Quinault Business Committee, I hereby certify that the foregoing resolution was duly enacted by the Quinault Business Committee in Taholah, WA on July 25, 2011 by a vote of 6 for, 0 against, 1 abstaining.

Latosha Underwood, Secretary  
Quinault Business Committee

# Quinault Indian Nation



## Title 5

### Courts & Judiciary

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**Posted per November 24, 2008 QBC Resolution # 08-109-87**

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TITLE 5

COURTS AND JUDICIARY

5.01 Judicial Power

5.01.010 Power Vested. The judicial power of the people of the Quinault Reservation shall be vested in the courts established by the Business Committee, as it deems necessary, and herein referred to collectively as the Quinault Tribal Courts.

5.01.020 Scope

The judicial powers of the Quinault Tribal Courts shall extend to all cases and controversies in law, equity, common law and Quinault traditional law. The Quinault Tribal Courts shall have power to issue any order or writ necessary and proper to the complete exercise of its jurisdiction.

5.02 Court of Appeals

5.02.010 Composition

There shall be established a Quinault Tribal Court of Appeals. The Quinault Tribal Court of Appeals shall consist of three Judges appointed by the Chief Judge. All three judges may be judges of the

Quinault Tribal Courts, except the judge from whose decision the appeal is taken.

5.02.020 Jurisdiction

The Court of Appeals shall have jurisdiction to review those decisions of the Quinault Tribal Courts pursuant to Title 31 of this Code. All such appeals shall be limited to a review of the record. The parties shall not be entitled to a trial de novo in the Court of Appeals.

5.03 Quinault Tribal Courts

5.03.010 Composition

The Quinault Tribal Courts shall consist of 1 Chief Judge and any number of Associate Judges who shall all be appointed by the Quinault Business Committee.

5.03.020 Scope

Judges of the Quinault Tribal Courts shall have the powers and duties enumerated in this Title.

5.03.030 Jurisdiction

The Quinault Tribal Courts shall have original jurisdiction over the following unless jurisdiction is specifically limited by this Title, or by the

Business Committee when establishing such courts:

- (a) All crimes enumerated in this Code and committed within the territorial jurisdiction of the Quinault Tribal Courts.
- (b) All civil actions arising under this Code, at common law, in equity, or under traditional law in which the defendant is found within the Quinault Reservation and is served with process within or who is found outside the Quinault Reservation and is validly served with process under the long-arm service provisions of this Code.
- (c) The Quinault Tribal Courts shall have criminal and civil jurisdiction over all persons who enter the exterior boundaries of the Quinault Reservation for whatever purpose, said act of entry being construed as consent to such jurisdiction.
- (d) The jurisdiction of the Quinault Tribal Courts shall be concurrent and not exclusive with respect to an offense over which a federal or state court may have lawful jurisdiction.

(e) The territorial jurisdiction of the Quinault Tribal Courts shall embrace all land and waters within the exterior boundaries of the Quinault Reservation, lands acquired by the Quinault Indian Nation which are located outside the exterior boundaries of the Quinault Reservation, the Quinault Indian Nation's usual and accustomed fishing areas, traditional hunting areas, Indian Lands as defined by the Indian Gaming Regulatory Act P.L. 100-447 and offshore waters for a distance of 12 miles from the low water line.

5.04 Judges

5.04.010 Qualifications

Every judge shall be 21 years of age or over, of good moral character, and shall not have been convicted of a felony, a violation of the Quinault Indian Nation's criminal code or, within the year immediately preceding appointment, convicted of a misdemeanor. Every judge shall have completed such schooling as deemed necessary by the Business Committee and be capable of understanding the



provisions of this Code, court procedures and the duties of the office.

5.04.020

Term of Office

Each judge shall hold office for six years or until the judge resigns, retires, or is removed pursuant to 5.07.030. A judge may be reappointed to successive terms of office.

5.04.030

Removal

Any judge may be removed from office at any time after due notice and a hearing by two-thirds vote of the Quinault Business Committee if there is reasonable cause to believe the judge to be guilty of malfeasance or misfeasance in office, neglect of duty, mental or physical incapacity to perform the duties of the office or the judge has been convicted of a crime in a state or federal court, or convicted of a violation of the Quinault Indian Nation's criminal code since entering office.

5.04.040

Salaries

The salaries of the Chief Judge and Associate Judges shall be fixed and paid by the Quinault Business Committee.

5.04.050

Other Duties

The Chief Judge, in addition to regular judicial duties, shall have the authority to assign cases to Associate Judges.

5.04.060

Powers

The Chief Judge and Associate Judges shall hear and determine all matters which are duly and regularly filed in the Quinault Tribal Courts. They shall have power to issue subpoenas to compel attendance of witnesses or the production of documents upon their own motion or on the motion of a party litigant, issue all writs and warrants and may punish for failure to comply with a subpoena or for contempt.

5.04.070

Rules of Court

The Chief Judge and Associate Judges may adopt rules of pleading, practice and procedure applicable to any or all proceedings in the Tribal Courts and in the Court of Appeals. In addition, they may adopt uniform rules for the admission of evidence and may require the use of standard forms for pleadings, motions and other instruments filed

in court by litigants, as well as for judgments, writs, warrants and other court orders.

5.04.080

Seal

The Courts shall adopt a seal which shall be used by the Clerk of the Court when he certifies copies of any official document of the Courts, for use outside the Courts.

5.04.090

Disqualification

No judge shall be qualified to act in any case where he or she has an interest, is or has been a material witness, is related to any party or their counsel by marriage or blood in the first or second degree. A judge may be disqualified upon his own motion, or by application by any party in the proceeding upon filing a motion supported by affidavit that the party or party's legal representative believes the party will not receive a fair and impartial trial before such judge. No party or their legal representative shall be permitted to make more than one such application in any action or proceeding and such application must be timely.

5.04.100

Assignments

The Chief Judge shall hear all cases, arising under this Code, except those which have been assigned to an Associate Judge.

5.05

Clerk

5.05.010

Appointment

The Clerk of the Court shall be appointed by the Business Committee or its designee or by any other procedure the Business Committee deems appropriate. There may be appointed as many Associate Clerks as the Business Committee deems necessary.

5.05.020

Qualifications

No person shall be appointed a Clerk of the Courts unless the appointee:

- (a) is 21 years of age or older and of good moral character.
- (b) has never been convicted of a felony or violation of the Quinault Indian Nation Criminal Code or has not been convicted of a misdemeanor within the past year.
- (c) speaks, writes and understands the English language fluently and has demonstrated compe-

tence in the skills essential to the preparation and maintenance of court records.

(d) has attained an appropriate level of schooling as determined by the Business Committee.

5.09.030

Duties

The Clerk or Associate Clerks shall render assistance to the law enforcement office and to residents of the Reservation in the drafting of complaints, subpoenas, warrants, and any other documents necessary to the functions of the Court. The Clerk or Associate Clerks shall file all documents properly submitted to the Courts for filing. The Clerk or Associate Clerks shall attend and keep a record of the Quinault Tribal Court and Court of Appeals, administer oaths, collect all fines paid by order of the Court and account therefore. The Clerk or Associate Clerks shall schedule all hearings and trials and establish the Courts' calendars. The Clerk of the Courts shall supervise all Associate Clerks and shall perform other duties as provided in this Code and as may be directed by the Judges.

5.09.040        Bond

The Clerk and all Associate Clerks shall be bonded. ( )

5.11            Records

5.11.010       Docket

The Clerk shall keep a Docket in which shall be entered the names of each plaintiff and defendant in any civil or criminal proceeding, the character of the proceeding, the date of issuance and the return date of any process issued therein, the appearance or default of parties summoned, the date and amount of any judgment, any appeal thereon and all other proceedings therein. The Clerk shall keep and maintain such other records as provided in ( ) this Code and as may be directed by the Judges.

5.11.020       Copies of Proceedings

All court proceedings and documents filed with the court are public records except for those proceedings and documents sealed by court order or prohibited from public release pursuant, to any other Title of this Code.. Any party may obtain a certified copy of court proceedings and documents filed in the Quinault Tribal Courts from the Clerks

by payment of the cost thereof.

5.11.030

Copies of Laws

The Quinault Tribal Courts shall be provided with copies of this Code and copies of other federal and state laws and regulations deemed necessary, proper and applicable to the rights and conduct of persons subject to the Courts' jurisdiction and judicial powers and responsibilities.

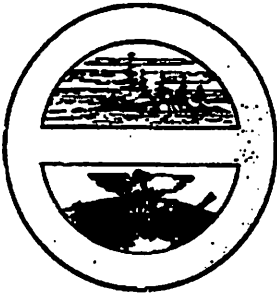
5.12

Other Court Personnel

5.12.010

Appointment. Qualifications. Duties

The Business Committee may, as it deems necessary, establish any other positions with the Quinault Tribal Courts, the qualifications required to hold such positions, the rate of pay and the duties of such positions. The Business Committee may fill such positions by appointment or direct the Department of Human Resources or its successor to fill such positions.



# Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (360)278-8211

## RESOLUTION NO. 95-64-73 QUINAULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation and;

WHEREAS, the Quinault Business Committee is charged with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation and;

WHEREAS, the Quinault Business Committee is also charged under Article V, Section 3 (b) of the Constitution of the Quinault Indian Nation to establish an independent Tribal Court and provide for its procedures, jurisdiction and appointment or election of its judges and;

WHEREAS, the Business Committee finds that Title 5 of the Quinault Tribal Code no longer adequately address the procedures, jurisdiction and appointment of judges to provide for the orderly administration of justice in the Quinault Tribal Court and;

WHEREAS, it is possible to amend Title 5 to provide for the orderly administration of justice and;

WHEREAS, Title 5 has been to effectuate the orderly administration of justice and;

WHEREAS, public hearings were held in Queets and Taholah on September 18 and 19 1995, on proposed amendments to Title 5 of the Quinault Tribal Code and comments taken at those hearings on the proposed Title;

NOW, THEREFORE, BE IT RESOLVED the attached Title 5 as is enacted into law and;



BE IT FURTHER RESOLVED, that amended Title 5 shall become effective on December 1, 1995.

Pearl Capoeman-Baller  
Pearl Capoeman-Baller, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on this 23rd day of October 1995, at which time a quorum was present by a vote of 5 FOR, 2 AGAINST and 1 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee



## Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLA, WASHINGTON 98587 ☐ TELEPHONE (206) 276-8211

# MEMO

**To:** Legal  
**From:** Margie Valdillez, Secretary Quinault Indian Nation  
**Subject:** Title 5  
**Date:** October 24, 1995

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Action of the Quinault Business Committee for: October 23, 1995.

☒ APPROVED    ☐ DENIED    ☐ TABLED    ☐ OTHER

Move to Approve.

# Quinault Indian Nation



## Title 30

### Rules Of The Quinault Tribal Court

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TITLE 30

RULES OF THE QUINAULT TRIBAL COURT

30.01.010

Purpose

This Title shall govern procedure in all proceedings in the Quinault Tribal Court. This Title is intended to provide for the just determination of every proceeding and shall be construed to secure simplicity in procedure, fairness in administration, effective justice and elimination of unjustifiable delay or expense. This Title shall be interpreted consistent with the provisions of Titles 30A and 30B.

30.02.010

Court Sessions

Regular sessions of the Court shall be held as needed in Taholah, Washington. When appropriate, the Court may sit at Queets or Lake Quinault or elsewhere within the Quinault Indian Reservation.

30.03.010

Official Station

Taholah, Washington is designated as the place where current records of the Court shall be kept and as the official station of the Clerk of the Court.

30.04.010

Location for Filing

All pleadings, motions and other papers shall be filed at the official station of the Clerk of the Court.

30.05.010 Copies of Documents

Records or documents in the files of the Court shall not be taken from the office or custody of the Clerk, except upon consent of the Clerk. Only counsel for parties will be allowed the right to remove documents and only for good cause shown and after giving proper receipt. Records or Documents in the files of the Court may be copied by the Clerk's office. The Clerk shall charge a fee for copying which may be waived if the party requesting the copies is indigent.

30.06.010 Notice to Parties

All cases at issue shall be set for trial on the merits at a time and place to be designated by the Court, and written notice of not less than 10 judicial days shall be given counsel or the parties except for good cause.

30.07.010 Extension of Time

The Court may grant extensions of time if a written request is timely filed and upon good cause.

30.08.010 Court Decorum

The following rules shall govern Court decorum requiring no interference or disturbance with the proceedings before the Court:

- (a) A law enforcement officer may be appointed court bailiff by the judge and the bailiff will open each session of Court and be present to keep order in the courtroom at all times.
- (b) The public shall be permitted in the courtroom during trial sessions except that spectators may be prohibited from entering the courtroom during the taking of testimony without specific permission of the judge.
- (c) All persons in the courtroom shall remove their hats. All persons shall be dressed in a clean, neat manner and no person shall smoke or chew gum or tobacco in the courtroom.
- (d) Loud and unusual noises, the use of profane language or disturbances of any kind will not be allowed in the courtroom.
- (e) No one shall be allowed in the courtroom who appears to be under the influence of intoxicating liquor or drugs.
- (f) Respect and courtesy shall be shown to the judge, parties and court officers at all times.



(g) A flag of the United States and a tribal flag, if available, shall be displayed in the courtroom at all times.

30.09.010

Exhibits

All separate documents, photographs, papers, and written or printed instruments of any nature shall be given separate exhibit numbers, with exhibits for the plaintiff numbered numerically and exhibits for the defendant marked alphabetically. In civil cases, all exhibits in the custody of the Clerk after judgment becomes final or after final disposition of the action, shall be delivered or mailed by the Clerk to the party offering the same or to his counsel. Any exhibits refused by a party or counsel may be destroyed or otherwise disposed of by the Clerk.

30.10.010

Subpoena

- (a) Every Judge of the Quinault Tribal Court shall have the power to issue a subpoena for the attendance of witnesses at a hearing, trial or deposition whether on his or her own motion or the motion of any party to the case.
- (b) Service of subpoenas shall be by any qualified member of the Quinault Law Enforcement staff, officer of the Court or any other person 18 years of age or older who is not a party to

the proceeding appointed by the Court for that purpose.

(c) A subpoena may also command the person to whom it is directed to produce books, papers or other tangible things.

(d) Failure of any person without adequate excuse to obey a subpoena may constitute Contempt of Court.

(e) A person not a party who is subpoenaed to appear before the court shall be compensated for their appearance and per mile for travel to and from Court at a rate set by the Court, to be paid by the party who subpoenaed the person, except in criminal cases where the defendant is found to be indigent.

30.11.010

Right to Counsel

Each litigant in a civil case and every defendant in a criminal proceeding shall have the right to have counsel of his choice represent him at his own expense.

30.12.010

Admission of Counsel and Lay Counsel

All counsel who wish to be admitted to practice before the Quinault Tribal Court may be admitted to practice by order of the Chief Judge upon written motion.

- (a) Any person who is a member in good standing of the bar of any state of the United States or the District of Columbia, is of good moral character, and demonstrates to the Court a thorough knowledge of this Code, the Rules of the Quinault Tribal Court, and federal law and regulations applicable to the Quinault Nation, and some knowledge of the culture and traditions of its members, is eligible to apply for admission to general practice in this Court. Any person who is 18 years of age or older, has not been convicted of a felony, or a misdemeanor in the past year, is of good moral character, and demonstrates to the Court a thorough knowledge of this Code, the Rules of the Quinault Tribal Court and knowledge of the culture and traditions of the Quinault people, is eligible to apply for admission to general practice in this Court as lay counsel or lay advocate.
- (b) The court may require a person to pass an examination to test their knowledge of the above.

30.13.010 Not Eligible as Security

No counsel admitted to practice in this Court may provide security for costs or act as surety on any appeal or other bond in any case pending in which counsel is interested.

30.14.010 Disqualification as Witness

No counsel in a case may testify as a witness at the trial thereof, except upon permission of the Court.

30.15.010 Appointment of Prosecutor

The Chief Judge may appoint a counsel as prosecutor for the Quinault Tribe only if a prosecutor has not been appointed by the Business Committee of the Quinault Indian Nation, or the appointed prosecutor is unavailable.

(a) No person shall be appointed as prosecutor unless the appointee is admitted to practice before the Court, as provided by these Rules.

(b) The prosecutor is authorized to sign, file and present any complaint, subpoena, affidavit, motion or any civil or criminal process on behalf of the Quinault Indian Nation.

30.16.010 Disqualification of the Judge

In the case of death, illness or incapacity of the judge during the course of a trial, the Chief Judge shall order a new trial and designate another judge

who shall have the same power, authority and jurisdiction as the original judge.

30.17.010

Contempt of Court

Any person may be charged in contempt of Court for any of the following reasons:

- (a) Disorderly, contemptuous, or insolent behavior, committed in immediate view and presence of the Court and directly tending to interrupt its proceedings or to impair the respect due to its authority.
- (b) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of the Court.
- (c) Willful disobedience of any process or order lawfully issued by the Court.
- (d) Resistance willfully offered by any person to the lawful order or the process of the Court.
- (e) The unlawful refusal of any person to be sworn or affirmed, such as refusal to answer any material questions, except where refusal is based on legal or valid grounds.
- (f) The publication of a false or grossly inaccurate report of the proceedings of any Court.
- (g) Any person who shall request a jury trial and fails to appear on the date the jury trial is scheduled.

Upon a finding that a person is in contempt of court the Court may sentence such person to confinement for a period of not more than 1 year or to pay a fine of not more than \$1,000.00 or both, with costs, and may also issue such orders as are necessary to enable the person to purge himself or herself of the contempt.

30.18.010

Disposition of Fines, Fees and Other Payments Made to the Court

Any fines paid to the Quinault Tribal Court as a result of the provisions of this Code or other lawful orders of the Court, shall be paid to the Clerk of the Court who shall issue a receipt therefor and shall deposit the funds into the general treasury of the Quinault Indian Nation or special court fund of the general treasury if such fund is established by the Business Committee of the Quinault Indian Nation.

30.19.010

Disposition of Equipment and Property Confiscated by the Court

Any property, including equipment, which may have been forfeited by lawful order of the Court under the provisions of this Code, shall be sold at public auction and the proceeds thereof deposited by the Clerk of the Court into the general treasury.

30.20.010

Appeals

- (a) Any party aggrieved by a final judgment or order of the Quinault Tribal Court in any case shall be entitled to appeal to the Quinault Tribal Court of Appeals, provided that a notice of appeal is filed with the Clerk of the Court within 20 judicial days after the final judgment is entered.
- (b) The appeal if granted shall be heard by the Quinault Tribal Court of Appeals and the judgment of the Appeals Court shall be final.
- (c) While a case is on appeal the Court may grant a stay of the judgment pending a decision by the Court of Appeals.

30.21.010

Rules of Evidence

Except as otherwise expressly provided in this Code, the law and rules of the State of Washington governing the admission of evidence shall apply to all proceedings. The Court shall interpret those rules in light of the unique cultural and historical traditions of the people of the Quinault Nation and in the interest of justice and fairness. The Court may also look to the decisional law of the Washington State appellate courts in interpreting those rules. When the Court's interpretation of a rule of evidence departs from

Washington State law regarding the same or similar rule, the Court's interpretation shall be filed as a written Rules of Evidence Memoranda which will set forth the facts of the case, the evidence rule or rules at issue, the Washington State decisional law interpreting the rule or rules at issue and the Court's rationale for its interpretation of the rule or rules. The written Rules of Evidence Memoranda shall be filed with the court clerk and available for public inspection during regular court hours. The Rules of Evidence Memoranda may be cited by any party as authority and shall govern all subsequent litigation.

30.22.010

Enforcement of Foreign Judgments, Orders and Decrees.

Enforcement of any final order, judgment or decree of a State, Federal or Tribal Court may be sought in the Quinault Tribal Court, where such order, decree or judgment involves a matter in which the foreign court has either exclusive or concurrent jurisdiction. The Quinault Tribal Court may grant full faith and credit to such an order, judgment or decree pursuant to the following procedures:

- (a) A certified copy of the judgment, order or decree issued by the foreign court must be



- filed with the Clerk of the Quinault Tribal Court;
- (b) The person seeking enforcement shall file a Petition For Enforcement along with the judgment, order, or decree;
  - (c) The clerk shall set a date for a hearing on the Petition no sooner than 15 judicial days from the date the Petition is filed to determine whether to grant full faith and credit to the foreign order, judgment or decree;
  - (d) A copy of the Petition and Notice of Hearing shall be served personally or by registered mail on the respondent no later than 5 judicial days before the date of the hearing;
  - (e) The hearing on the Petition shall be governed by the rules of the Quinault Tribal Court;
  - (f) The respondent may raise any defense that would be available to the respondent in the Court issuing the order, judgment or decree;
  - (g) At the conclusion of the hearing the court shall enter an order either granting or denying full faith and credit to such order, decree or judgment and any other relief the Court deems appropriate;

(h). If the respondent fails to appear at the hearing or elects not to contest the Petition for Enforcement the Court shall determine if the foreign court issuing the order, judgment or decree had jurisdiction to enter such order, judgment or decree and whether the respondent was properly served notice of the hearing. Upon a finding that the foreign court had jurisdiction, and the respondent was properly served notice of the hearing, the Quinault Tribal Court shall enter an order granting full faith and credit to such order, judgment or decree and any other relief it deems appropriate.

30.23.010

Extradition

Whenever the Chief Judge of the Quinault Tribal Court is informed and believes that any person has committed a crime inside or outside the exterior boundaries of the Quinault Reservation in violation of the laws of the United States, a state of the United States or a federally recognized Indian Tribe, the judge may upon request of the proper authorities, order the Quinault Police Department to deliver that person to the proper authorities. The Chief Judge may request the proper authorities of the United States, a State or Tribe to deliver

any person who has committed a crime within the jurisdiction of the Quinault Indian Nation and has fled to avoid prosecution, to the custody of the Quinault Tribal Court.

30.24.010

Rules of Exclusion Procedure

The procedure for exclusion of persons from the Quinault Reservation under section 17.01.010 shall be as follows:

- (a) The President or Vice-President of the Quinault Indian Nation Business Committee shall petition the Quinault Tribal Court to serve notice, in accordance with 30B.05.020 of this Code, upon any person when the President or Vice-President has reason to believe cause may exist for exclusion of such person. Such notice shall state the reason for the order and shall name a time not less than 5 judicial days, unless an emergency exists, when the person may appear before the Quinault Tribal Court to show cause why he should not be excluded from the Quinault Indian Reservation.
- (b) After notice to the person proposed for exclusion, the Quinault Tribal Court shall hold a hearing to decide whether or not that person shall be excluded from the Quinault Indian Reservation.

- (c) If the person does not appear at the hearing at the time and place scheduled or if found at the hearing that cause does exist to exclude that person from the Quinault Indian Reservation, the Quinault Tribal Court shall issue an order excluding the person from all or any part of the Quinault Indian Reservation or permitting such person to remain on the Quinault Indian Reservation under such conditions as specified in the order. The order shall be effective until revoked or modified by the Court.
- (d) Any person subject to any order of the Court under this Section may appeal to the Quinault Tribal Court of Appeals, under this Code.
- (e) If the final judgment is that the person shall be excluded from the Quinault Reservation, then the Court shall deliver an order of removal to any law enforcement officer who shall thereupon order the person to obey the order. If, after the required time specified in the order, the person does not comply with the order he may be removed bodily from the Quinault Indian Reservation by the law enforcement officer as stated in the order of the Court.

- (f) In cases involving immediate danger to the life, health, morals, or property of the Quinault Nation, residents of the Reservation, or any tribal members, where delay would result in irreparable damage, a judge of the Quinault Tribal Court, upon petition of the President or Vice-President of the Quinault Tribal Business Committee, may order any law enforcement officer to remove a person and/or any property of such person from the Quinault Reservation immediately, using only so much force as is reasonable and necessary to effect the removal. The judge shall cause the law enforcement officer to serve the notice upon the person at the time of removal or cause the notice to be served as soon thereafter as possible.
- (g) In any case involving the immediate removal of a person from the Quinault Reservation, the order of the judge shall state the conditions under which the person may return for a hearing, if such hearing was not held, and for appeal of the judgment, if the person files notice of appeal as required by this Code.

30.25.010

Declarations

Rev. 6/92

30-16

Whenever, under the laws or rules of the Quinault Indian Nation, any matter in an official proceeding is required or permitted to be supported, evidenced, established or proved by a person's sworn statement, declaration, verification, certificate, oath or affidavit, the matter may with like force be proved in the official proceeding by unsworn written statement, declaration, verification or certificate which:

- (a) Recites that it is certified or declared by the person to be true under penalty of perjury;
- (b) Is subscribed by the person;
- (c) States the date and place of its execution; and
- (d) States that it is so certified or declared under the laws of the Quinault Indian Nation.

The certification or declaration shall be in substantially the following form:

"I certify under penalty of perjury under the laws of the Quinault Indian Nation that the foregoing is true and correct":

---

(Date and Place)

(Signature)

30.26.010

Sovereign Immunity

This Title and Titles 30A and 30B shall not be construed to waive the sovereign immunity of the Quinault Indian Nation or any of its employees, officials, agents, entities or enterprises.

30.27.010

Reference

A reference in any other provision of this Code to a specific section of former Title 30 shall mean the section of this Title that addresses the referenced matter.



# Quinault Indian Nation

POST OFFICE BOX 189    ☐    TAHOLAH, WASHINGTON 98587    ☐    TELEPHONE (206) 276-8211

## RESOLUTION NO.    92-48-70 QUINAULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation and;

WHEREAS, the Quinault Business Committee is charged with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation and;

WHEREAS, the Quinault Business Committee is also charged under Article V Section 3 the Constitution of the Quinault Indian Nation to establish a Tribal Court and provide for its procedures and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code currently set forth the rules of Criminal Procedure, Civil Procedure and Rules of the Court respectfully and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code no longer adequately address the procedures and rules necessary to provide for the orderly administration of justice in the Quinault Tribal Court and;

WHEREAS, it is confusing to litigants when the Tribal Court rules and procedure are contained in separate sections of the Quinault Tribal Code and;

WHEREAS, it is possible to amend or replace those Titles to provide for the orderly administration of justice and to place those Titles in one Section of the Tribal Code and;

WHEREAS, Title 30 has been amended and Titles 10 and 15 have been and replaced by Titles 30A and 30B respectively to effectuate the orderly administration of justice and to allow the Tribal Court rules and procedures to be located sequentially in the Quinault Tribal Code and;

WHEREAS, public hearings were held in Queets and Taholah on July 20, 1992, and comments were taken on amended Title 30 and new Titles 30A and 30B;

NOW, THEREFORE, BE IT RESOLVED that Title 30 as amended and new Titles 30A and 30B are enacted into law and shall be placed sequentially in the Quinault Tribal code and;

BE IT FURTHER RESOLVED, that Titles 10 and 15 are hereby repealed and replaced with Titles 30A and 30B respectively as of August 31,



BE IT FURTHER RESOLVED, that the above provision shall take effect August 15, 1992.

Joseph DeLaCruz  
Joseph DeLaCruz, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 27<sup>th</sup> day of July 1992, at which time a quorum was present by a vote of 7 FOR, 0 AGAINST and 0 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee



# Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (206) 276-8211

## RESOLUTION NO. 92-48-70 QUINAULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation and;

WHEREAS, the Quinault Business Committee is charged with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation and;

WHEREAS, the Quinault Business Committee is also charged under Article V Section 3 the Constitution of the Quinault Indian Nation to establish a Tribal Court and provide for its procedures and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code currently set forth the rules of Criminal Procedure, Civil Procedure and Rules of the Court respectfully and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code no longer adequately address the procedures and rules necessary to provide for the orderly administration of justice in the Quinault Tribal Court and;

WHEREAS, it is confusing to litigants when the Tribal Court rules and procedure are contained in separate sections of the Quinault Tribal Code and;

WHEREAS, it is possible to amend or replace those Titles to provide for the orderly administration of justice and to place those Titles in one Section of the Tribal Code and;

WHEREAS, Title 30 has been amended and Titles 10 and 15 have been and replaced by Titles 30A and 30B respectively to effectuate the orderly administration of justice and to allow the Tribal Court rules and procedures to be located sequentially in the Quinault Tribal Code and;

WHEREAS, public hearings were held in Queets and Taholah on July 20, 1992, and comments were taken on amended Title 30 and new Titles 30A and 30B;

NOW, THEREFORE, BE IT RESOLVED that Title 30 as amended and new Titles 30A and 30B are enacted into law and shall be placed sequentially in the Quinault Tribal code and;

BE IT FURTHER RESOLVED, that Titles 10 and 15 are hereby repealed and replaced with Titles 30A and 30B respectively as of August 31,

C

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C

1992, and:

BE IT FURTHER RESOLVED, that amended title 30 and Titles 30A and 30B shall govern all cases filed in the Quinault Tribal Court after August 31, 1992.

Joseph De La Cruz  
Joseph DeLaCruz, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 27<sup>th</sup> day of July 1992, at which time a quorum was present by a vote of 7 FOR, 0 AGAINST and 0 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee

# Quinault Indian Nation



## Title 30 (A)

# Rules Of Criminal Procedure

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**TITLE 30A**

**RULES OF CRIMINAL PROCEDURE**

30A.01.010

Scope

These rules are adopted to govern procedure in the Quinault Tribal Court in all criminal proceedings. These rules shall be interpreted consistent with the Indian Civil Rights Act, Constitution of the Quinault Indian Nation and Title 30.

30A.02.010

Rights Of The Accused

In all proceedings for offenses punishable by loss of liberty the defendant shall have the following rights:

- (a) The right to be present at every stage of the proceeding.
- (b) The right to defend in person, by retained counsel or appointed counsel at no expense if the defendant qualifies for appointed counsel and appointed counsel is available.
- (c) The right to know the nature and cause of the charge and to receive a copy of the complaint.
- (d) The right to cross examine witnesses.
- (e) The right to compulsory process to obtain testimony of witnesses in his behalf and to obtain physical evidence within the jurisdiction of the Quinault Indian Nation.

- (f) The right to a speedy and public trial.
- (g) The right to an impartial jury.
- (h) The right to remain silent the exercise of which shall not be used against the accused in court nor commented upon by the prosecution.
- (i) The rights enumerated under the Indian Civil Rights Act.

30A.03.010

Nature and Contents of Complaint

All criminal proceedings shall be initiated by complaint filed in the Quinault Tribal Court. To be valid the complaint shall be signed by the complaining witness and the judge or by the tribal prosecutor and shall:

- (a) State the name of the defendant the essential facts constituting the offense charged in plain ordinary language, including the time and place of the alleged offense, and whether the offense occurred within the jurisdiction of the Quinault Indian Nation.
- (b) Contain the citation to the Quinault Tribal Code or other provision of law which the defendant is alleged to have violated.

30A.04.010

Amendment of Complaint

The Court may permit a complaint to be amended at any time before trial if substantial rights of the defendant are not prejudiced.

30A.05.010      Joinder

The Court may order two or more defendants to be tried together or may order a single defendant tried on more than one complaint at a single trial.

30A.06.010      Severance

If it appears the defendant or the Nation is prejudiced by joinder of defendants or offenses the Court may separate the defendants or offenses for trial.

30A.07            Release of Accused

30A.07.010      Personal Recognizance

Every person who is arrested and charged with an offense under the Quinault Tribal Code shall at the earliest court appearance be released on his or her personal recognizance pending trial unless the Court determines that release upon personal recognizance will not reasonably ensure the accused's appearance when required in which case the Court shall order conditions for release. In determining whether recognizance will not ensure the appearance of the accused the Court may consider the nature of the offense, the likely danger the accused will commit a violent crime, seek to intimidate a witness, unlawfully interfere with the administration of justice and the accused's criminal history.

30A.07.020

Conditions of Release

If the Court determines that recognizance will not ensure the appearance of the accused and there is probable cause to believe the accused has committed the charged offense the Court may impose the least burdensome or restrictive of the following conditions for release of the accused:

- (a) Bail in the form of a cash or surety bond in an amount deemed sufficient by the Court to ensure appearance and/or;
- (b) Restrictions on travel, association activities and any other conditions deemed reasonably necessary to assure appearance of the accused when required and to reduce danger to others and the community.

30A.07.030

Order on Release

If the Court imposes conditions of release it shall issue an order containing those conditions and inform the accused of those conditions and the possible penalties for violation of those conditions.

30A.07.040

Violations of Conditions of Release

Upon the Court's own motion or motion by the prosecuting attorney that the accused has willfully violated a condition of release the Court shall order the accused to appear for immediate hearing.

If the accused does not appear after being properly served the Court may issue an arrest warrant to ensure appearance and the forfeiture of bail or bond. If by clear and convincing evidence it is found that the accused has violated the conditions of release the Court may impose additional conditions or order the defendant detained pending trial.

30A.07.050

Detention

No person shall be detained, jailed or imprisoned for a period longer than 36 hours (exclusive of Saturdays, Sundays and holidays) without a hearing before a judge of the Quinault Tribal Court. If a hearing is not held within 36 hours the accused shall be released from custody.

30A.07.060

Return of Surety

Any cash or property given as security by the accused shall be applied to any ordered fines or costs. Any cash or property given as security by anyone else on behalf of the accused shall be returned by the Court upon entry of a verdict of not guilty or upon execution of a sentence.

30A.08

Arrest and Summons

30A.08.010

Arrest Warrant

If a complaint is filed and it appears from the complaint or from affidavits or sworn testimony,

that there is probable cause to believe that an offense has been committed and the defendant committed the offense, the Court may, upon the request of the prosecuting attorney, issue a warrant for the arrest of the defendant. Any testimony in support of an arrest warrant shall be electronically recorded.

(a) The warrant shall specify the name of the defendant, or if the name is unknown, any name or description by which the defendant can be identified with reasonable certainty. The warrant shall specify the offense or offenses charged in the complaint, the date of issuance and the signature of the issuing judge. The warrant shall command the defendant be brought before the court forthwith. The warrant may also set forth bail.

(b) An arrest warrant shall be executed by a qualified Law Enforcement Officer and upon execution of the warrant or the failure to find the defendant, the law enforcement officer shall endorse the warrant and return it to the Clerk of the Court. Any unexecuted warrant may be canceled by the judge who issued the warrant. A copy of the warrant shall be given to the defendant at the time

the warrant is executed.

30A.08.020 Arrest Without a Warrant

No law enforcement officer shall arrest without a warrant any person for any offense unless:

- (a) The offense was committed in the presence of the officer or;
- (b) The officer has probable cause to believe the person is committing or about to commit an offense or;
- (c) The officer has probable cause to believe the person has committed an offense and exigent circumstances prevent the officer from obtaining an arrest warrant or;
- (d) A warrantless arrest is specifically authorized by any other provisions of this Code.

30A.08.030 Warnings

When a person is arrested he or she shall be informed:

- (a) Of the right to remain silent and that any statement made may be used against them in a court of law and;
- (b) Of the right to retain an attorney of his or her choosing and to have the attorney present before and during questioning or the making of a statement and;

- (c) The right to request to have an attorney be appointed if the defendant cannot afford an attorney and;
- (d) The right to exercise any of the above rights at any time before or during questioning.

30A.08.040

Summons

If a complaint is filed the Court shall direct the Clerk to issue a summons commanding the defendant to appear before the court at a specified time and place. A summons will issue in lieu of a warrant unless the Court finds there is reasonable cause to believe that the defendant will not appear in court in response to a summons, or that arrest is necessary to prevent serious bodily harm to another or the accused.

- (a) A summons shall be in writing and state the name of the defendant, the date issued, the time and place the defendant is to appear before the court and the reason the defendant has been commanded to appear. The summons shall be signed by the Judge or the Court Clerk.
- (b) A summons shall be served by a law enforcement officer who shall deliver a copy of the summons to the defendant personally or by certified or registered mail, return receipt



requested.

- (c) If a person fails to appear in response to a summons, or the officer has diligently attempted to serve the summons and has a reasonable belief that service cannot be effected, the Court may issue a warrant for arrest.

30A.09 Search and Seizure

30A.09.010 Authority to Issue Search Warrant

A search warrant may be issued by the judges of the Quinault Tribal Court.

30A.09.020 Property Which May Be Searched and Seized

A warrant may be issued to search for and seize any evidence or property within the jurisdiction of the Court.

30A.09.030 Issuance

No warrant shall be issued except upon probable cause supported by oath or affirmation that an offense has been committed and property used, intended for use, or which has been used in the commission of that offense or contraband or evidence of an offense will be found at the place or on the person to be searched.

30A.09.040 Contents

- (a) The warrant shall with particularity describe the place thing or person to be searched, the

items to be seized and the reason for the issuance of the warrant.

- (b) The warrant shall authorize that it be served by a Quinault Nation Law Enforcement Officer between 7:00 a.m. and 7:00 p.m. and shall specify the date or dates for the search.
- (c) The judge may for good cause authorize service of the warrant at a time other than between 7:00 a.m. and 7:00 p.m. and such authorization shall be noted on the warrant.

30A.09.050

Execution and Return

- (a) The law enforcement officer taking the property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property. If no such person is present the officer shall post a copy of the warrant and a receipt.
- (b) The officer shall inventory the items taken in the presence of the person from whose possession the property is taken or, if that person is unavailable, at least one other person.

30A.09.060

Warrantless Search and Seizure

- (a) No law enforcement officer shall search any person without a warrant unless:

- (1) The officer has probable cause to believe that the person has committed an offense and is in possession of property related to the commission of the offense and exigent circumstances prevent the officer from obtaining a warrant or;
  - (2) The search is incident to a lawful arrest or;
  - (3) The person knowingly and voluntarily consents to the search or;
  - (4) The officer has reasonable suspicion that a person is armed and dangerous.
- (b) No law enforcement officer shall search any premises, vehicle, boat or property without a warrant unless:
- (1) The officer has probable cause to believe evidence of a crime will be found in the place to be searched and exigent circumstances prevent the officer from obtaining a warrant or;
  - (2) The person knowingly and voluntarily consents to the search;
  - (3) The search is incident to a lawful arrest and limited to the area within the vicinity of the arrestee;
  - (4) The search is pursuant to any federally

recognized exception to the warrant requirement.

30A.10 Intercepting Communications

30A.10.010 Authorization

A judge of the Quinault Tribal Court may authorize a law enforcement officer to intercept, transmit, record or disclose an oral communication or conversation where the officer is a party to the conversation or communication or one of the parties to the communication or conversation has given prior consent.

30A.10.020 Grounds

No authorization to intercept, record or disclose an oral or private conversation or communication shall be issued except upon probable cause supported by oath or affirmation that the nonconsenting party has committed, is engaged in, or about to commit an offense.

30A.10.030 Content of Authorization

Authorization under this provision shall state the name of the nonconsenting party, if known by the law enforcement officer, and the particular time and place for the interception, transmission, recording or disclosure of the communication or conversation: **Provided:** That if the judge determines that there is probable cause to believe

the conversation or communication concerns the sale, manufacture, delivery or possession of a controlled substance, the time or place of the interception, transmission, recording or disclosure need not be stated with particularity.

30A.10.040 Time Limitation

Authorizations issued under this provision shall be effective for not more than 7 days, after which period the issuing judge may renew or continue the authorization for an additional periods not to exceed 7 days.

30A.10.050 Admissibility

Any communication or conversation recorded under this provision shall be lawful and admissible at trial.

30A.11 Video or Sound Recordings

30A.11.010 Telephone Calls

It shall be lawful to record incoming telephone calls to police and fire stations, emergency medical service providers and emergency centers.

30A.11.020 Arrested Persons

(a) Video or sound recordings may be made of arrested persons by police officers under the following conditions:

(1) The arrested person shall be informed that a recording is being made and the

statement so informing the person shall be included in the recording;

(2) The recording shall commence with an indication of the time and date and end with the time of termination of the recording;

(3) The arrested person shall be informed of his or her rights under this Title and such statements informing the person of those rights shall be included in the recording.

(b) The recordings shall only be used for valid police or court activities and shall be admissible at trial.

30A.12

Time for Trial

30A.12.010

Time for Arraignment, Pretrial Hearing and Trial

A defendant shall be arraigned not later than 30 judicial days after the date the complaint is served on the defendant. A defendant shall be brought to trial not sooner than 7 and no more than 90 judicial days from the date of arraignment.

30A.12.020

Extensions of Time for Trial

(a) The Court may extend the date of trial for good cause. No extension of the trial date shall exceed 30 judicial days from the date the extension is granted.

(b) The Court may extend the date of trial upon agreement of the parties.

(c) If before the jury retires to determine its verdict the Court orders a mistrial or, if after verdict the Court orders a new trial, the defendant shall be brought to trial not later than 90 judicial days from the order.

30A.12.030 Setting the Trial Date

At the arraignment the Court shall set a date for trial. If the defendant does not waive his or her right to a jury trial the Court may also set a date for a pretrial hearing.

30A.12.040 Pretrial Hearing

At the pretrial hearing the parties shall bring any motions that can be ruled on before trial and the parties shall submit their proposed instructions to the jury. Failure to bring any motion that should have been brought at the pretrial hearing may be deemed a waiver. Failure to submit proposed instructions at the pretrial hearing may bar a party from excepting to an instruction not given.

30A.13.010 Arraignment

(a) At the arraignment the defendant shall be informed of:

- (1) The nature of the charge;
- (2) The penalties prescribed by the Quinault

Tribal Code and;

(3) The rights afforded a defendant under the Quinault Tribal Code.

(b) The judge shall ask the defendant to plead guilty, not guilty or no contest. If the defendant pleads not guilty the judge may ask the defendant if he or she wishes to waive the right to a jury trial. If the defendant fails to plead, the judge shall order the entry of a plea of not guilty and schedule the case for a jury trial unless the defendant affirmatively waives the right to a jury trial.

30A.14

Discovery

30A.14.010

Prosecutor's Obligations

Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting attorney shall disclose to the defendant the following no later than 10 judicial days before a trial to the court and no later than the pretrial hearing where the case will be tried to a jury:

(a) The names and addresses of all persons the Nation intends to call as witnesses and a copy of all written or recorded statements of such persons known and the substance of all oral statements.



- (b) All written, recorded or oral statements made by the defendant and the names of all persons known by the Nation who heard such statements.
- (c) The names of all persons known by the Nation who have information concerning the alleged offense/s, the nature of the information and whether the Nation intends to call them as witnesses.
- (d) Any books, papers documents, photographs or other tangible objects the Nation intends to use at trial.
- (e) Any information or material known to the Nation which might tend to exculpate the defendant.
- (f) The names and addresses of any expert witnesses the Nation intends to call at trial with a summary of their testimony and qualifications.
- (g) Any and all reports made by the agents of the Nation pertaining to the investigation of the case, including but not limited to all police reports.
- (h) Any prior criminal convictions known to the prosecuting attorney of the defendant.

30A.14.020

Defendant's Obligations

Except as otherwise provided as to matters not

subject to disclosure and protective orders, the defendant shall disclose to the prosecuting attorney the following no later than 10 judicial days before a trial to the bench and no later than the pretrial hearing in a jury trial:

- (a) The names and addressees of any persons the defendant intends to call and a copy of all written or recorded statement of such persons and the substance of any oral statements.
- (b) Whether there is any claim of incompetency.
- (c) Whether there is any claim of insanity.
- (d) Whether there is any claim of alibi.

30A.14.030

Continuing Duty to Disclose

If a party discovers additional material subject to disclosure under this rule it shall immediately notify the other party or their counsel and the court of the existence of the material. Upon request of any person, the Court may permit any showing of cause for denial or regulation of disclosure, to be made in camera. A record shall be made of such proceedings. If the court enters an order granting relief following an in camera hearing, the entire record shall be sealed and preserved to be made available to the Appellate Court in the event of an appeal.

30A.14.040

Sanctions

If a party fails to comply with these discovery rules the Court may grant a continuance, exclude the evidence not disclosed, or impose whatever sanctions the Court deems appropriate.

30A.15

Suppression Hearings

30A.15.010

Suppression of Evidence

The Court may, but is not required to, exclude oral, physical or identification evidence from admission at trial if the Court finds that the evidence was discovered in violation of a defendant's rights under the Indian Civil Rights Act, these rules or any other provision of the this Code. If a party moves for suppression of any evidence the Court shall hold a hearing to determine the admissibility of that evidence. At the conclusion of the hearing the Court shall set forth its findings and its reason for the admissibility or inadmissibility of the evidence.

30A.15.020

Statements of the Accused

When a statement of the accused is to be offered as evidence the Court shall hold a hearing, at the request of a party, for the purpose of determining whether the statement is admissible. Such hearing may be held prior to or during the trial.

- (a) The Court shall inform the defendant that he may, but need not testify at the hearing.

- (b) If the accused does testify he or she will be subject to cross-examination concerning the circumstance surrounding the statements and credibility.
- (c) If the accused does testify at the hearing he or she does not waive their right to remain silent during the trial and the fact that the accused testified at the hearing and his testimony will not be mentioned to the jury.
- (d) If the accused does testify at trial about the statement he or she can be cross-examined with respect to the testimony at the suppression hearing.
- (e) If the Court rules that statements made by the accused are admissible at trial the accused shall be entitled to instruct the jury that they may give such weight and credibility to the statement as they see fit.

30A.16. Trial By Jury or By the Court

30A.16.010 Right to a Jury

All criminal cases shall be tried to a jury unless the defendant knowingly, intelligently and voluntarily waives the right to a jury in open court and has the consent of the Court. The Court may require the defendant to inform the Court of his or her decision to waive a jury 10 judicial

days before the scheduled trial date. If the defendant fails to assert his or her right to a jury 10 judicial days before trial it will be deemed a waiver and the case will be tried to the judge.

30A.16.020

Number of Jurors

The number of persons serving on a jury shall be 6, not including alternates.

30A.16.030

Composition of Jurors

The jury shall be composed from a list of residents of the Quinault Indian Reservation as certified to the Chief Judge by the Quinault Business Committee. Such list shall be published and made available to the parties to a case and the public. The list shall be revised from time to time by the Quinault Business Committee.

30A.16.040

Selection of Jury

- (a) The Clerk of the Court shall prepare separate ballots containing the names for the jurors summoned who have not been excused by the court and deposit the ballots in a box. The clerk shall then draw at random 6 names for the purpose of voir dire examination. Any additions to the panel shall be drawn using the same procedure until a jury has been selected.

(b). Failure to impanel a jury for any reason will constitute good cause to extend the trial date. An extension under this provision shall be for no more than 10 judicial days.

30A.16.050

Voir Dire

A voir dire examination shall be conducted for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of preemptory challenges. The Court may permit the defendant or the defendant's attorney and the prosecuting attorney to conduct the examination or the Court may itself conduct the examination. If the Court conducts the examination it shall permit the defendant or the defendant's attorney and the prosecuting attorney to submit additional supplemental questions as it deems proper.

30A.16.060

Disqualification

A juror shall be deemed incompetent due to a mental or physical defect or ailment that render the juror incapable of performing the duties of a juror.

30A.16.070

Challenges

Either party to a case may challenge not more than two (2) jurors without cause and any number for cause which shall consist of, but is not limited to:

- (a) Having been a juror, party or witness in any civil or criminal case involving the same facts and parties.
- (b) Having a close family, business or legal relationship with the defendant, defense attorney, prosecuting attorney or any law enforcement officer called as a witness against the defendant.
- (c) Having an opinion on the guilt or innocence of the defendant as would impair impartiality.

30A.16.080

Jurors' Oath

When a jury has been seated, the juror's oath shall be administered by the judge or the Clerk.

30A.16.090

Duties

The Court may order the jury to view the premises where the offense or other material facts occurred. The Court may allow jurors to take notes regarding the evidence. The Court may order the discharge of a juror who becomes sick or otherwise unable to perform the duties of a juror and substitute the alternate juror. In the absence of an alternate and the failure of the parties to stipulate to continue the trial with five or less jurors, the jury shall be discharged and a new jury shall be selected, within 10 judicial days, to hear the case.

30A.16.100

Verdict .

- (a) A verdict of guilt must be unanimous. If after the Court determines that the jury is unable to reach a unanimous verdict the Court shall declare a mistrial or may dismiss the case.
- (b) A defendant may be found guilty of an offense necessarily included in the offense charged.

30A.16.110

Bench Trial

In a case tried without a jury, the judge shall make a general finding of guilt or innocence and shall, upon request of any party, make specific written findings of fact and conclusions of law.

30A.17.010

Trial Procedures

The following procedures shall govern a criminal trial:

- (a) The trial shall be electronically recorded by the clerk of the court;
- (b) The prosecutor and the defendant or defendant's counsel shall be allowed to make an opening statement;
- (c) Each party shall be entitled to present admissible evidence and shall be entitled to cross-examine any witnesses called by the other party;
- (d) The testimony of witnesses shall be taken in



- open court but upon motion by any party and for good cause a witnesses may be sequestered;
- (e) Physical evidence shall be introduced and admitted only after a proper foundation has been laid under the rules of evidence;
  - (f) The Court on its own motion or on a motion by the defendant shall enter a judgment for acquittal at the close of the evidence offered by the prosecution if the evidence, taken in the light most favorable to the prosecution, is insufficient prove that the defendant is guilty beyond a reasonable doubt;
  - (g) The parties may offer rebutting evidence only, except that the Court may in the interest of justice permit the introduction of other evidence;
  - (h) The parties may offer argument, the prosecution having the right to open and close;
  - (i) Each party has the right to have the jury instructed, in writing, so that they can argue their theory of the case;
  - (j) The judge shall charge the jury orally and in writing stating the law applicable to the case. At any time during the trial the judge may instruct the jury as to the law. In

addition to any other lawful instructions requested by either party the judge shall instruct the jury that the defendant is presumed to be innocent, that if the defendant did not testify, his silence cannot be considered as evidence of guilt, that the prosecution must prove beyond a reasonable doubt all of the elements of the offense and that the verdict of the jury must be unanimous;

- (k) The parties may offer supplemental jury instructions at any time before the jury retires to deliberate and objections to any instruction not made before the jury retires to deliberate shall be deemed waived.

30A.18

Post Trial

30A.18.010

Directed Verdict

At any time after the close of the evidence, the Court may direct a verdict of acquittal. After the charge the jury shall retire to determine a verdict. The jury must render a verdict of guilty, not guilty or unable to agree on every allegation in the complaint. When a verdict is returned and before recorded the jury shall be polled at the request of the Court or any party. After the verdict of the jury has been announced to the

judge, the jury shall be discharged.

30A.18.020

Acquittal

If the Court finds for the defendant or the jury brings back a verdict of not guilty a judgment of acquittal shall be entered and the defendant shall be immediately discharged.

30A.18.030

Unable to Agree

If the jury is unable to unanimously agree on a verdict of guilty or not guilty, the Court shall declare a mistrial and discharge the jury. If the Court declares a mistrial due to the failure of the jury to agree on a verdict, the prosecution may refile the complaint. The complaint must be refiled within 20 judicial days and trial must held within 90 judicial days of the announcement of mistrial.

30A.18.040

New Trial

A motion by the defendant for a new trial must be filed within 10 judicial days after the verdict or decision. The court may extend the time for filing a new trial motion if good cause is shown as to why the motion was not timely filed. The Court shall grant the defendant's motion if the Court finds any of the following denied the defendant a fair trial:

- (a) The jury received evidence not authorized or admitted by the court;

- (b) The verdict was determined by lot, through intimidation or without a fair expression of opinion;
- (c) The jury was improperly instructed on the law;
- (d) There is newly discovered evidence which was not available or which could not have been discovered at the time of trial;
- (e) Unintentional misconduct by the prosecutor, police or jury;
- (f) The defendant did not receive a fair or impartial trial;
- (g) The verdict was contrary to law or the evidence;
- (h) An order or ruling of the Court prevented the defendant from having a fair trial.

30A.18.050

Arrest of Judgment

The Court shall at any time relieve a party from a final judgment and dismiss the case for any of the following reasons:

- (a) Lack of jurisdiction over the part the crime;
- (b) Fraud in obtaining the judgment;
- (c) The judgment is void;
- (d) Intentional misconduct by the prosecutor, police or jury which denied the defendant the right to a fair trial;
- (e) Insufficiency of proof of a material element

of the crime;

(f) The complaint fails to charge a crime;

(g) Any other reason justifying relief from the judgment.

30A.19.010

Dismissal

The Court may on its own motion in the furtherance of justice dismiss any criminal prosecution and must set forth its reasons in a written order.

30A.20

Conviction and Sentence

30A.20.010

Time of Sentence and Contents of Judgment

Within a reasonable time after a verdict or plea of guilty and after such pre-sentencing investigation as the judge may direct, the judge shall sentence the defendant and enter a judgment. The judgment shall be filed by the Clerk and state the charge, plea or verdict and the sentence.

30A.20.020

Sentence

The Court shall state the precise terms of the sentence. The Court shall also advise the defendant of his or her right to file an appeal and that the appeal must be filed within 20 judicial days from the date of sentencing. If the defendant is sentenced to custody he or she shall be given full credit for any time spent in confinement in connection with the offense.

(a) Any confinement may include:

- (1) Serving of a sentence on weekends;
  - (2) Community service in lieu of confinement;
  - (3) Work release.
- (b) The Court may suspend or defer any sentence upon such or conditions that are reasonable and release the defendant on probation. In granting probation the Court shall consider such factors as the defendant's prior criminal history, background, financial circumstances, family obligations and other relevant circumstances. The Court shall specify the term of the probation.
- (c) The Court may order probation up to one year in addition to any confinement.
- (d) The Court may defer prosecution of a case for up to two years and upon reasonable conditions. A deferred prosecution shall terminate two years from the date of the order deferring prosecution unless the deferred prosecution is revoked prior to that date. If a deferred prosecution is revoked, the case will be set for trial no later than 90 judicial days following the revocation.
- (d) The Court may order the defendant to pay restitution to the victims or victims of the crime. Restitution shall be in an amount

easily ascertainable, for damage or injury related to the crime and proven by a preponderance of the evidence. No person shall be confined solely because of their inability to pay ordered restitution.

30A.20.030

Fines

When a defendant is sentenced to pay a fine, the Court may permit the fine to be paid within a definite period or by installments. Fines shall be paid to the Clerk. No person shall be confined solely because of their inability to pay a fine.

30A.21.010

Violation of Probation

If any person shall willfully violate probation he or she may have their probation revoked and be required to serve his original sentence. The Court may also impose an additional 60 days confinement for violation of probation. The Court shall not revoke probation except after a hearing at which the defendant shall be present and advised of the grounds on which such action is proposed. The defendant may be admitted to bail pending the hearing.

30A.22.010

Repeal

Title 10 is repealed and replaced by this Title. A reference in any other provision of this Code to a specific section of former Title 10 shall mean a

reference to a specific section of this Title that  
addresses the referenced matter.





## Quinault Indian Nation

POST OFFICE BOX 189 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (206) 278-8211

### RESOLUTION NO. 92-48-70 QUINULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation and;

WHEREAS, the Quinault Business Committee is charged with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation and;

WHEREAS, the Quinault Business Committee is also charged under Article V Section 3 the Constitution of the Quinault Indian Nation to establish a Tribal Court and provide for its procedures and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code currently set forth the rules of Criminal Procedure, Civil Procedure and Rules of the Court respectfully and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code no longer adequately address the procedures and rules necessary to provide for the orderly administration of justice in the Quinault Tribal Court and;

WHEREAS, it is confusing to litigants when the Tribal Court rules and procedure are contained in separate sections of the Quinault Tribal Code and;

WHEREAS, it is possible to amend or replace those Titles to provide for the orderly administration of justice and to place those Titles in one Section of the Tribal Code and;

WHEREAS, Title 30 has been amended and Titles 10 and 15 have been and replaced by Titles 30A and 30B respectively to effectuate the orderly administration of justice and to allow the Tribal Court rules and procedures to be located sequentially in the Quinault Tribal Code and;

WHEREAS, public hearings were held in Queets and Taholah on July 20, 1992, and comments were taken on amended Title 30 and new Titles 30A and 30B;

NOW, THEREFORE, BE IT RESOLVED that Title 30 as amended and new Titles 30A and 30B are enacted into law and shall be placed sequentially in the Quinault Tribal code and;

BE IT FURTHER RESOLVED, that Titles 10 and 15 are hereby repealed and replaced with Titles 30A and 30B respectively as of August 31,

1992, and:

BE IT FURTHER RESOLVED, that amended title 30 and Titles 30A and 30B shall govern all cases filed in the Quinault Tribal Court after August 31, 1992.

Joseph DeLaCruz  
Joseph DeLaCruz, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 27<sup>th</sup> day of July 1992, at which time a quorum was present by a vote of 7 FOR, 0 AGAINST and 0 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee

# Quinault Indian Nation



**Title 30 (B)**

# **Rules Of Civil Procedure**

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**TITLE 30B**

**RULES OF CIVIL PROCEDURE**

**30B.01.010      Scope**

This Title governs the procedure in all civil proceedings and shall be interpreted consistent with Title 30.

**30B.02.010      Civil Action**

All forms of action will be known as a civil action. The party commencing the action shall be known as the plaintiff, and the opposite party as the defendant.

**30B.03.010      Commencement of Action**

A civil action is commenced by the filing of a complaint in the Quinault Tribal Court with the clerk of the court. A complaint must be accompanied by a filing fee of \$50.00 unless the Court finds that the plaintiff is indigent and unable to pay the filing fee or the plaintiff is the Quinault Indian Nation or an entity, agency or enterprise of the Quinault Indian Nation.

**30B.04.010      Complaint**

A complaint shall state the following;

- (a) Name of the plaintiff;
- (b) Name of the defendant;
- (c) Facts constituting the grievance;

- (d) Request for a jury trial if desired;
- (e) The relief requested.

A complaint shall be signed by the plaintiff. A complaint may be amended at any time prior to trial if properly filed and served and if it does not prejudice the defendant. The court shall give the defendant reasonable time to answer an amended complaint and conduct further discovery.

30B.05

Summons and Service

30B.05.010

Summons

Upon filing of a complaint the Clerk shall issue a summons to which will be attached a copy of the complaint directing the defendant to appear before the Quinault Tribal Court at the time and place specified in the summons. The defendant shall be required to appear no later than 30 judicial days from the date the summons and a copy of the complaint is served on the defendant. A defendant shall file a Notice of Appearance with the Clerk of the court and serve same on the plaintiff no later than 20 judicial days from the date the summons and complaint is served on the defendant in leu of personal appearance before the court.

30B.05.020

Service

The summons and complaint shall be served on the defendant by personal service or registered mail.



- (a) Service by mail shall be made by the clerk by registered mail, return receipt requested. The return receipt signed by the defendant shall be filed in the court file and is evidence of receipt of notice.
- (b) Personal service shall be made by a person over 18 years old by leaving copies of the summons and complaint on the door of the defendant's abode or by handing the summons and complaint to the defendant personally. The plaintiff may not personally serve the defendant. An affidavit of service shall be returned to the clerk and filed with the court file and is evidence of service.
- (c) All subsequent pleadings, after service of the Summons and Complaint may be served in a manner consistent with this provision or by mailing a copy by first class mail properly addressed and postage prepaid to the parties or, if represented, their counsel.
- (d) Any person subject to the jurisdiction of the Quinault Tribal court may be served outside the territorial jurisdiction of the court in the manner provided herein with the same force and effect as if the service had been made within the territorial jurisdiction thereof if

such person:

- (1) Transacts business or commits an act leading to a tort action within the Quinault Indian Reservation.
- (2) Owns, uses or possesses any property or interest therein within the Reservation.
- (3) Contracts for services to be rendered or goods to be furnished within the Reservation.
- (4) Is related to a member of the Quinault Indian Nation by blood, marriage or adoption, and the claim before the court involves the status of that relationship.
- (5) Possesses some other relationship to the Quinault Indian Reservation, Quinault Nation or its members which gives the Quinault Tribal Court subject matter and personal jurisdiction over the claim and defendant.

30B.06.010

Answer

- (a) The defendant shall serve an answer to the complaint within 30 judicial days after service of the summons and complaint.
- (b) An answer shall assert any defenses, counter-claims or set-offs.
- (c) The Answer shall contain a request for a jury

if desired.

- (c) An answer may be amended to respond to an amended complaint or upon motion to the Court. The Court shall grant a motion to amend the answer if it finds the amendment will not prejudice the plaintiff.

30B.07.010

Third-Party Practice

- (a) The defendant may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to the defendant for all or part of the plaintiff's claim. The defendant must serve the summons and complaint within 20 judicial days after the defendant serves his original answer. Otherwise the defendant must obtain the court's permission upon notice to all parties to the action.
- (b) The plaintiff may cause a third party to be brought in under circumstances which under this provision would entitle the defendant to do so.

30B.08.010

Joinder

- (a) A party asserting a claim to relief as an original claim, counterclaim cross-claim or third-party claim, may join, either as independent or as alternate claims, as many

claims as the party has against the opposing party.

- (b) A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party if the person's absence will prevent the court from granting complete relief to those already parties or the person claims an interest relating to the subject matter of the action and is so situated that the disposition of the action in the person's absence may impede the person's ability to protect that interest. If a person joinable cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court are:

- (1) To what extent a judgment rendered in the person's absence might be prejudicial to the person or any other party;
- (2) The extent to which by shaping relief the prejudice can be avoided;
- (3) Whether the judgment rendered in the

person's absence will be adequate;

- (4) Whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

30B.09.010

Permissive Joinder

- (a) A person may join in one action as a plaintiff if they assert any right to relief jointly, severally or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transaction or occurrences and if any questions of law or fact common to all these persons will arise in the action.

- (b) A person may join in one action as a defendant if there is asserted against them jointly, severally or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action.

30B.10

Discovery

30B.10.010

Methods

- (a) Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written

interrogatories; production of documents or things or permission to enter upon land or other property; for inspection and other purposes; physical and mental examinations and requests for admissions.

- (1) After the summons and complaint have been served any party may take the testimony of any person including a party by deposition upon oral examination. A party desiring to take the deposition of any person, other than another party, upon oral examination shall serve on every other party and the person to be examined a subpoena indicating the time and place of the examination. A party desiring to take the deposition of another party shall serve on every other party and the party to be examined reasonable notice of the time and place of the examination. The person examined shall be placed under oath and the examination may be recorded by any means that will accurately reflect the questions and answers. The party requesting oral examination will bear the expense of the examination and provide

the other parties, at reasonable cost, an accurate record of the examination.

- (2) When the mental or physical condition of a party or person under legal control of a party is in controversy, the Court may order a mental or physical examination of that person. The order may be made only on a motion for good cause and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is made. The party examined may request, at no cost, the examiner's report.

- (3) When a party requests documents or things the other party shall permit the requesting party to inspect and copy the documents or things.

30B.10.020

Scope of Discovery

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or of the other party, including but not limited to the identity of each person a party expects to call as an expert witness, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected

to testify and a summary of the grounds for each opinion. The frequency and extent of use of discovery methods shall be limited by the Court if it determines that the discovery sought is cumulative, duplicative, unduly burdensome or expensive. Upon motion by a party or person from whom discovery is sought, and for good cause, the court may make any order which justice requires to protect a party from annoyance, embarrassment, oppression or undue burden or expense.

30B.10.030

Notice

A party requesting discovery must afford the other party reasonable notice and a reasonable time to respond. Upon a motion of a party, and for good cause, the Court may make any order which justice requires, to control the method, manner and timing of discovery.

30B.10.040

Discovery Costs

Each party shall pay its own discovery costs unless the Court finds a manifest injustice in which case the Court shall apportion the costs between the parties.

30B.10.050

Sanctions

The Court, upon a showing of good cause, may impose any sanction it deems appropriate under the circumstances of the case for a parties failure to



provide discovery or conduct discovery in good faith.

30B.11.010 Subpoena

- (a) The Court shall order by subpoena the appearance of any person to require that person's attendance before the Court or their attendance at a deposition. The Court may also order the production of books, records, papers documents or other physical evidence.
- (b) A subpoena may be served in the manner provided for in this Code.
- (c) Failure by any person without adequate excuse to obey a subpoena may constitute contempt of court.

30B.12 Jury Trial

30B.12.010 Request

In any civil case a trial by jury may be requested by either party litigant, except in cases which under the laws of the Washington State are not subject to the right to a jury, including but not limited to cases involving domestic relations, probate, adoptions, minors, incompetents, injunctions, civil contempt, appeals and small claims. If a jury is not requested the case will be tried by the Court. If a jury is requested the Court may conduct a pre-trial hearing to rule on

any legal issues brought by any party and to determine what instructions shall be given to the jury.

30B.12.020

Procedures

A request for a jury must be contained in the Complaint or Answer filed with the court. The request for a jury must be confirmed in writing with the court no later than 20 judicial days before trial. The cost of the jury shall be paid by the party or parties demanding the jury no later than 20 judicial days before the scheduled trial date. The party or parties demanding the jury may recover the cost of the jury from the other party in the event the verdict is in favor of the party demanding the jury.

30B.12.030

Number of Jurors

The number of persons serving on a jury shall be 6, not including alternates.

30B.12.040

Composition of Jurors

The jury shall be composed from a list of residents of the Quinault Indian Reservation as certified to the Chief Judge by the Quinault Business Committee. Such list shall be published and made available to the parties to a case and the public. The list shall be revised from time to time by the Quinault Business Committee.

30B.12.050     Selection of Jury

The clerk of the court shall prepare separate ballots containing the names for the jurors summoned who have not been excused by the court and deposit the ballots in a box. The clerk shall then draw at random 6 names for the purpose of voir dire examination. Any additions to the panel shall be drawn using the same procedure until a jury has been selected.

30B.12.060     Voir Dire

A voir dire examination shall be conducted for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of preemptory challenges. The Court may permit each party to conduct the examination or the Court may itself conduct the examination. If the Court conducts the examination it shall permit each party to submit additional supplemental questions as it deems proper.

30B.12.070     Disqualification

A juror shall be deemed incompetent due to a mental or physical defect or ailment that render the juror incapable of performing the duties of a juror.

30B.12.080     Challenges

Either party to a case may challenge not more than

two (2) jurors without cause and any number for cause which shall consists of, but not limited to:

(a) Having been a juror, party or witness in any civil or criminal case involving the same facts and parties.

(b) Having a close family, business or legal relationship with the defendant, plaintiff or witnesses.

30B.12.090

Jurors' Oath

When a jury has been seated, the juror's oath shall be administered by the judge or the clerk.

30B.12.100

Duties

The Court may order the jury to view the premises where the offense or other material facts occurred. The Court may allow jurors to take notes regarding the evidence. The Court may order the discharge of a juror who becomes sick or otherwise unable to perform the duties of a juror and substitute the alternate juror. In the absence of an alternate and the failure of the parties to stipulate to continue the trial with five or less jurors, the jury shall be discharged and a new jury shall be selected to hear the case.

30B.13.010

Instructions

Each party has the right to have the jury instructed, in writing, so that they can argue

their theory of the case. The judge shall charge the jury orally and in writing stating the law applicable to the case. At any time during the trial the judge may instruct the jury as to the law after notice to both parties or in the presence of both parties. The parties may offer supplemental jury instructions at any time before the jury retires to deliberate. Any objections to any instruction not made before the jury retires to deliberate shall be deemed waived.

30B.14.010

Verdict

A verdict in a civil case may be rendered by four jurors. If the plaintiff fails to win the majority of votes, judgment shall be entered in favor of the defendant and the case dismissed.

30B.15.010

Bench Trial

In a case tried without a jury, the judge shall hear and determine the evidence in support of the complaint and any counterclaims. Upon the request of either party the court shall make specific written findings of fact and conclusions of law.

30B.16

Motions

30B.16.010

Dismissal

Any party may at any time after the complaint is filed move the Court for an order dismissing the complaint.

30B.16.020     Summary Judgment

- (a) A party seeking to recover upon a claim, counterclaim or cross claim, or to obtain a declaratory judgment may, after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment upon all or any part for the claim, counterclaim or cross claim.
- (b) A party against whom a claim, counterclaim or cross claim is asserted or a declaratory judgment is sought may move with or without supporting affidavits for a summary judgement as to all or any part thereof.
- (c) The judgment sought shall be granted if the Court finds there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

30B.16.030     New Trial

A motion by any party for a new trial must be filed within 10 judicial days after the verdict or decision. The Court may extend the time for filing a new trial motion if good cause is shown as to why the motion was not timely filed. The court shall

grant the motion if the court finds any of the following:

- (a) The jury received evidence not authorized or admitted by the court;
- (b) The verdict was determined by lot, through intimidation or without a fair expression of opinion;
- (c) Irregularity in the proceedings of the court, jury or adverse party, preventing a fair trial;
- (d) There is newly discovered evidence which was not available or which could not have been discovered at the time of trial;
- (e) Damages so excessive or inadequate or error in the assessment of the amount of recovery as to indicate the verdict must have been a result of prejudice or passion;
- (f) Error in law occurring at trial and objected to at that time;
- (g) The verdict is contrary to law or the evidence;
- (h) That substantial justice has not been done.

30B.16.040

Arrest of Judgment

The court shall at any time relieve a party from a final judgment and dismiss the case for any of the following reasons:

- (a) Lack of jurisdiction over the party or the crime;
- (b) Fraud in obtaining the judgment;
- (c) The judgment is void;
- (d) Mistakes or irregularities in obtaining the judgment;
- (e) Death of one of the parties before the entry of the judgment;
- (f) The judgment has been satisfied, released or discharged;
- (g) Any other reason justifying relief from the judgment.

30B.16.050

Other

Any party may at any time after the complaint is filed move the Court for any relief so requested.

30B.16.060

Notice

Any pre-trial or post-trial motions brought by any party must be filed and served on the other party no later than 10 judicial days before any scheduled hearing on the motion. The Court, on a showing of good cause, may waive the notice requirements of this rule.

30B.16.070

Hearings

A hearing on any motion shall be set by the Clerk of the Court. The Court may adopt its own procedural rules to govern the scheduling of



hearings on motions.

30B.17.010

Counsel

Each litigant in a civil case shall have the right to have counsel of his choice represent him at his own expense. No counsel may testify as a witness at trial except upon permission of the court.

30B.18.010

Consolidation/Separation

When actions involving a common question of fact or law are pending before the court, it may order a joint hearing or trial of any or all matters at issue. In the furtherance of convenience or to avoid prejudice the court may order a separate trial of any claims or issues.

30B.19.010

Testimony/Record

The testimony of witnesses shall be taken orally in open court, unless otherwise directed by the Court or by law. Testimony of witnesses shall be under oath. Unless the parties and the court agree that a proceeding not be recorded, all proceedings shall be electronically recorded. Any party, at its own expense, may additionally arrange for a court reporter to record any proceeding.

30B.20.010

Damages

In an action for damages a plaintiff can request reasonable punitive damages if the jury or Court make a specific finding that the defendant acted

willfully or intentionally. A request for punitive damages must be set forth in the complaint. If both the plaintiff and the defendant are found to be at fault, damages will be apportioned according to the degree of fault. When a case is tried to a jury, a party or the Court may request that the jury determine the plaintiff's degree of fault.

30B.21.010

Judgments

At the conclusion of a proceeding the court shall enter a judgment in favor of the plaintiff or the defendant or both. A judgment for damages shall be considered a lawful debt in all procedures to distribute a decedent's estate.

30B.22.010

Default Judgments

When the defendant fails to appear at the time stated in the summons, the other party may proceed to offer evidence including proof that the defendant was served with a summons, and the court may render a judgment granting such relief as the evidence warrants. The defaulting party may apply in writing for a new trial within 10 judicial days of a default judgment, after showing good cause for his failure to answer the summons. The court may set aside the default judgment on such terms as it deems just. When the plaintiff fails to appear at the time set by the summons for hearing, the court

may dismiss the cause with prejudice.

30B.23.010

Enforcement of Judgment

- (a) The court may enforce judgments in civil proceedings by issuing a Writ of Execution against any eligible personal property of the party against whom judgment is rendered located within the boundaries of the Quinault Indian Reservation, returnable not less than 10 days after the day of issuance. The Writ shall be served by a Law Enforcement Officer. The Writ of execution may specify personal property to be seized in satisfaction of any judgment and any property seized may be subject to sale by the court to satisfy the judgment after 10 days notice by posting public notice of such sale. The sale will be conducted by the clerk of the court and will be to the highest bidder for cash. The Clerk of the Court shall set a minimum bid. The proceeds of such sale will be paid as follows:
- (1) Costs of the sale;
  - (2) Unpaid court costs;
  - (3) The amount of the unsatisfied judgment;
  - (4) The balance will be paid to the defendant.
- (b) The Court may enforce judgments in civil

proceedings by issuing a Writ of Garnishment directed to any person or corporation located or doing business on the Quinault Indian Reservation. The Writ of Garnishment shall state with specificity the amount of the unsatisfied judgment, the terms of the Garnishment and the rights of the defendant and garnishee to object to the Writ.

- (1) The Writ shall direct the garnishee to pay any earnings or money owed to the defendant to the judgment creditor. The court shall limit the garnishment to 50% of the defendant's earnings in any pay period. If the garnishee is a financial institution the Writ shall direct the garnishee to pay the judgment creditor no more than the amount of the unsatisfied judgment plus costs and attorney's fees.
- (2) The Writ shall state that a garnishee's failure to respond to the Writ shall make the garnishee liable for the amount of the unsatisfied judgment.
- (3) The Writ shall be served on both the defendant and the garnishee by a Law Enforcement Officer.
- (4) A garnishee's failure to respond to a

Writ without lawful excuse shall make the garnishee liable to the judgment creditor for the amount of the unsatisfied judgment.

- (5) Within 10 judicial days from the date the Writ of Garnishment is served on both the garnishee and the defendant the garnishee or the defendant may file an objection to the Writ. If an objection is filed a hearing will be held within 10 judicial days from the date the objection is filed. The person filing the objection shall serve all parties to the action a notice of the hearing no later than 5 judicial days before the date of the hearing. At the hearing the Court shall determine whether the Writ was properly issued.
- (c) An unsatisfied judgment may be filed in a lien against funds owing the defendant by the Quinault Nation by having the clerk deliver a copy of the judgment to the President or Vice-President and they shall pay over the amount specified in the judgment as funds become available to the credit of such part. Any unpaid amount of the judgment shall remain

unsatisfied.

(d) The Court may issue a prejudgment Writ of Attachment or Garnishment as security for the satisfaction of such judgement the plaintiff may recover, upon notice to the defendant of the right to a prompt hearing at which the plaintiff shall establish probable validity of the claim sued on and probable cause to believe that grounds of an attachment exist, the posting of a bond in an amount determined by the court and affidavit:

(1) That the defendant as concealed himself or herself to avoid service; or

(2) That the defendant has or is about to remove, assign, or dispose of any of his property with the intent to delay or defraud his creditors; or

(3) That the object for which the action is brought is to recover on a contract, express or implied.

(e) The Court may upon motion issue a writ of attachment or any other writ or order allowed under Washington State law in order to enforce a valid judgment.

30B.24.010

Time Limitations

No judgment of the court for money shall be

enforceable after five years from the date of entry, unless the judgment shall have been renewed once before the date of expiration, by institution of appropriate proceedings in the court by the judgment creditor filing an application and the Court thereupon shall order the judgment renewed and extended for an additional year.

30B.25.010 Satisfaction of Judgment

It is not the burden of the court to insure satisfaction of a judgment. The judgment creditor must notify the court in writing of full or partial satisfaction.

30B.26.010 Costs

In any civil case the court may award the winning party costs and/or attorneys fees if the court determines that it would be equitable to do so. Costs and/or attorney fees shall not be allowable against the Quinault Indian Nation or an entity or enterprise thereof which may be a party in a civil case.

30B.27.010 Repeal

Title 15 of this Code is hereby repealed and replaced by this Title. Any reference in any other provision of this Code to a specific section of Title 15 shall mean the specific section of this Title that addresses the referenced matter.



# Quinault Indian Nation

POST OFFICE BOX 189 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (206) 278-8211

## RESOLUTION NO. 92-48-70 QUINAULT BUSINESS COMMITTEE

WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation and;

WHEREAS, the Quinault Business Committee is charged with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation and;

WHEREAS, the Quinault Business Committee is also charged under Article V Section 3 the Constitution of the Quinault Indian Nation to establish a Tribal Court and provide for its procedures and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code currently set forth the rules of Criminal Procedure, Civil Procedure and Rules of the Court respectfully and;

WHEREAS, Titles 10, 15 and 30 of the Quinault Tribal Code no longer adequately address the procedures and rules necessary to provide for the orderly administration of justice in the Quinault Tribal Court and;

WHEREAS, it is confusing to litigants when the Tribal Court rules and procedure are contained in separate sections of the Quinault Tribal Code and;

WHEREAS, it is possible to amend or replace those Titles to provide for the orderly administration of justice and to place those Titles in one Section of the Tribal Code and;

WHEREAS, Title 30 has been amended and Titles 10 and 15 have been and replaced by Titles 30A and 30B respectively to effectuate the orderly administration of justice and to allow the Tribal Court rules and procedures to be located sequentially in the Quinault Tribal Code and;

WHEREAS, public hearings were held in Queets and Taholah on July 20, 1992, and comments were taken on amended Title 30 and new Titles 30A and 30B;

NOW, THEREFORE, BE IT RESOLVED that Title 30 as amended and new Titles 30A and 30B are enacted into law and shall be placed sequentially in the Quinault Tribal code and;

BE IT FURTHER RESOLVED, that Titles 10 and 15 are hereby repealed and replaced with Titles 30A and 30B respectively as of August 31,



1992, and:

BE IT FURTHER RESOLVED, that amended title 30 and Titles 30A and 30B shall govern all cases filed in the Quinault Tribal Court after August 31, 1992.

Joseph DeLaCruz  
Joseph DeLaCruz, Chairman  
Quinault Business Committee

CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 27<sup>th</sup> day of July 1992, at which time a quorum was present by a vote of 7 FOR, 0 AGAINST and 0 ABSTAIN.

Margie Valdillez  
Margie Valdillez, Secretary  
Quinault Business Committee

**QUINULT TRIBAL CODE  
TITLE 18  
PUBLIC NUISANCE CODE**

**18.01       General Provisions**

**18.01.010    Short Title**

This Title shall be known as the Quinault Indian Nation Public Nuisance Code.

**18.01.020    Purpose**

The purpose of this Title is to protect the fish, wildlife, and other natural resources, the safe and orderly habitation and development of the lands under the jurisdiction of the Quinault Indian Nation, and the beauty of the Quinault Indian Reservation by providing guidelines for regulating the use and enjoyment of the lands of the Quinault Indian Reservation and by providing criminal and civil sanctions for violations of this Title and the regulations promulgated under this Title.

It is the further purpose of this Title to preserve, protect and improve the air resources of the Quinault Indian Nation so as to promote health, safety and welfare, prevent injury to human, plant and animal life and property, foster the comfort and convenience of its residents and, to the greatest degree practicable, facilitate the enjoyment of the natural attractions of the Reservation.

**18.01.030    Scope and Applicability**

This Title shall apply to all lands, whether held in fee or trust, within the exterior boundaries of the Quinault Indian Reservation held by an private owner or owners; and to all acts or omissions by private individuals while within the exterior boundaries of the Quinault Indian Reservation; and to such acts or omissions by private individuals that occur outside the exterior boundaries of the Quinault Indian Reservation that have an effect on the lands within the exterior boundaries of the Quinault Indian Reservation.

**18.01.040    Definitions**

The following words, terms and phrases, when used in this Title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Abandoned, means a structure that has been vacant for a period in excess of twelve (12) months or any period less than twelve (12) months when a vacant structure or portion thereof constitutes an attractive nuisance or hazard to the public as determined by the Building Official;
2. Abate means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of this Title by such means and in such a

manner and to such an extent as the Director or his or her designee determines is necessary in the interest of the general health, safety and welfare of the community;

3. Alley means a public way, paved or unpaved, which is intended to provide or which provides a roadway for vehicular and pedestrian access to abutting properties and is generally located to the rear or side of those properties, but not including such a public way in its natural and undeveloped state which cannot be used by vehicles;

4. Attractive nuisance means any condition, structure, instrument, or machine that is unsafe, unprotected, and may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or, any lumber, trash, fences, debris, or vegetation that may prove hazardous or dangerous to minors.

5. Building materials means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials;

6. Department shall mean the Quinault Indian Nation Department of Public Safety.;

7. Emergency work means machinery and work necessary to restore property to a safe condition following a public calamity, or machinery and work required to protect persons or property from an imminent exposure to danger;

8. Enforcement officer shall mean any sworn member of the Department of Public Safety, any sworn Quinault Indian Nation Building Inspector, and the Quinault Indian Nation Sanitation Officer;

9. Fire hazard means vegetation which is dry and combustible, including but not limited to weeds, grass or clippings, dead bushes or trees or their parts, and other combustible vegetative materials;

10. Garbage is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food;

11. Graffiti means the unauthorized application of paint, ink, chalk, dye or the use of any other instrument capable of defacing, damaging, or destroying public and private buildings, structures, or any portion thereof;

12. Handbill is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise

reproduced original or copies of any matter of literature, not otherwise a newspaper;

13. Health hazard means vegetation or refuse providing a harborage for rats or other rodents (excluding chipmunks and squirrels), rodent runs and habitats; vegetation which is poisonous or noxious, including but not limited to poison ivy, poison oak, poison hemlock, poison sumac and nightshade; vegetation which creates a danger of contamination or disease; and vegetation which is infested with caterpillars or other horticultural pests;

14. Invasive Weed and/or Vegetation shall mean a plant that is 1) non-native (or alien) to the ecosystem under consideration and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

15. Junk vehicle means a vehicle meeting at least three (3) of the following requirements:

- a. Is three (3) years old or older;
- b. Is extensively damaged, such damage including, but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor or transmission;
- c. Is apparently inoperable;
- d. Has an approximate fair market value equal only to the approximate value of the scrap in it;
- e. Has not moved within the prior thirty (30) days;

16. Litter is "garbage," "refuse," and "rubbish" as these terms are defined in this section and all other solid and liquid waste material which, if thrown or deposited as prohibited in this Title tends to create a danger to public health, safety and welfare;

17. Newspaper means any newspaper of general circulation, a newspaper duly entered with the post office of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law. In addition, the term "newspaper" shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public;

18. Noise means the intensity, duration and character of sounds, from any and all sources;

19. Noxious weed and/or vegetation shall mean any plant which when established is highly destructive, competitive, or difficult to control by cultural or chemical practices;
20. Occupant means any person occupying or having possession of property or any portion thereof;
21. Owner means any person who, alone or with others, has title or interest in property, in trust or in fee, with or without accompanying actual possession thereof, and including any person who as agent, or as executor, administrator, trustee or guardian of an estate, has charge, care or control of any property;
22. Park means a park, reservation, playground, beach, recreation center or any other public area in the Reservation boundaries, owned or used by the Quinault Indian Nation and devoted to active or passive recreation;
23. Permitted Facility means a facility that has a valid permit issued by Quinault Indian Nation Department of Natural Resources or its designee that authorized burning for a particular purpose;
24. Person means any individual firm, association, partnership, corporation or any other entity, public or private;
25. Planting strip means that part of a street right-of-way between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk;
26. Premises means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks, public rights-of-way, and parking strips and any lake, river, stream, drainage way or wetland;
27. Public place means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings;
28. Refuse means all putrescible and nonputrescible solid and liquid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, solid market and industrial wastes, and any other material, regardless of its market value, which, by reasons of its location or character, is unsightly or interferes with the reasonable use and enjoyment of adjacent properties, of which has detrimental effects upon the adjacent property values, or which would hamper or interfere with the containment of fire upon the premises;
29. Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials;

30. Safety hazard means vegetation which creates a defective condition on any street, sidewalk, or alley or vegetation which overhangs the street, sidewalk, or alley in such a way as to impede the free and full use of the street, sidewalk, or alley, and vegetation which obstructs the vision of drivers such that traffic regulation signs or the view of oncoming traffic is obstructed at a distance of fifteen (15) feet or closer from the edge of the pavement or curb, and vegetation which creates injury to or the opportunity or risk for injury to passersby or the general public;

31. Sidewalk means that property between the curb lines or the lateral lines of a street and the adjacent property, set aside and intended for the use of pedestrians;

32. Store means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location;

33. Street means any highway, avenue, lane, road, street, drive, place, boulevard, alley, right-of-way, and every way or place in the Quinault Indian Reservation boundaries open as a matter of right to public vehicular travel;

34. Vegetation means trees, shrubs, grass, weeds, bushes, vines, and other plant materials, including but not limited to clippings, fallen leaves, fruit or branches;

35. Vehicle is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or waterway, including devices used exclusively upon stationary rails or tracks and to also include boats, vessels, and canoes.

18.01.050 Public Nuisances Unlawful

It is unlawful for any person to permit, create, maintain, or allow, upon any premises, any of the acts or things declared by this Title, or any Title in the Quinault Tribal Code, as a public nuisance.

18.01.060 Punishment of Public Nuisances

All public nuisances shall be punished according to Q.T.C. 18.10.010 et. seq.

18.01.070 Types of Nuisances.

Each of the following conditions, unless otherwise permitted by law, is specifically declared to constitute a public nuisance, and whenever an enforcement officer determines that any of these conditions exist upon any premises, the enforcement officer may issue a Notice of Voluntary Correction or Notice of Violation:

1. Litter Nuisance, as defined in QTC 18.02.010;

2. Noise Nuisance, as defined in QTC 18.03.010;

3. Natural Hazard Nuisance, as defined in QTC 18.04.010;

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4. Graffiti Nuisance, as defined in QTC 18.05.010;
  5. Rodent Nuisance, as defined in QTC 18.06.010;
  6. Junk Vehicle Nuisance, as defined in QTC. 18.07.010;
  7. Dangerous and Nuisance Buildings, as defined in QTC 18.08.010; and/or
  8. Pollution Nuisances, as defined in QTC 18.09.010.

18.01.080 Authorized act not a public nuisance.  
No act which is done or maintained under the express authority of a statute, code provision, resolution or written permission by the Quinault Indian Nation Business Committee can be deemed a public nuisance.

**18.02        Litter Control- Litter Nuisances**

**18.02.010    Litter Nuisance Unlawful**

It is unlawful, and hereby declared a public nuisance, for any person to commit an act or omission constituting a Litter Nuisance. The following conditions are hereby declared Litter Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. Throwing or depositing litter in or upon any street, sidewalk or other public place within the Reservation boundaries except in public receptacles, or in authorized private receptacles for collection;
2. Throwing or depositing litter in any park within the Reservation boundaries except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place;
3. Throwing or depositing litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the Reservation boundaries;
4. Driving or moving any truck or other vehicle within the Reservation boundaries unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place;
5. Sweeping into or depositing in any gutter, street or other public place within the Reservation boundaries the accumulation of litter from any building or lot or from any public or private sidewalk or driveway;
6. Failing to keep the sidewalk in front of a property owner's or leaseholder's premises free of litter;
7. Throwing or depositing litter on any occupied private property within the Reservation boundaries, whether owned by such person or not;
8. Throwing or depositing litter on any open or vacant private property within the Reservation boundaries, whether owned by such person or not;
9. Failing to maintain a property owner's or leaseholder's premises free of litter;
10. Posting or affixing any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law;
11. Throwing or depositing any handbill in or upon any vehicle;



12. Throwing or depositing any handbill in or upon any private premises;
13. Permitting the existence of any trash, dirt, filth, the carcass of any animal, manure or rubbish, accumulation of yard trimmings, excluding properly maintained yard compost, or other matter which is offensive to a reasonable person;
14. Erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any premises, which may be viewed or smelled from without the premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the Reservation boundaries, any one (1) or more of the following disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:
- a. Any putrid, unhealthy or unwholesome bones, meat, hides, skins, the whole or any part of any dead animal, fish or fowl, or waste parts of fish, vegetable or animal matter in any quantity; but nothing herein shall prevent the temporary retention of waste in approved covered receptacles; or
  - b. Any privies, vaults, cesspools, open containers of stagnant water, sumps, pits or like places which are not securely protected from flies and rats, or which are malodorous; or
  - c. An accumulation of material including, but not limited to bottles, cans, glass, plastic, ashes, scrap metal, wire bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing hay, straw or other packing material or building materials on any premises which not properly stored or neatly piled or is offensive to a reasonable person or in which flies or rats may breed or multiply; or
  - d. Accumulation of any litter, garbage, trash, refuse and/or rubbish; or
  - e. The keeping, using or maintaining of any pen, stable, lot, place or premises in which any hog, cattle or fowl may be confined or kept in such a manner as to be nauseous, foul or offensive;
15. Permitting the existence of any fence or other structure on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition;
16. Permitting the existence of wrecked or disassembled trailers, house trailers, boats, tractors or other vehicle, appliance or machinery of any kind, or any major parts thereof;
17. Permitting the existence on any premises of any abandoned or unused well, pit, shaft, cistern or storage tank without first demolishing or removing from the

premises such storage tank, or securely closing and barring any entrance or trapdoor thereto or without filling any well, pit, shaft or cistern or capping the same with sufficient security to prevent access thereto;

18. Permitting the existence in a place accessible to children of any attractive nuisance dangerous to children, including but not limited to any abandoned, broken or neglected equipment, machinery, refrigerator, freezer, or other large appliance;

19. Permitting or allowing a property owner's or leaseholder's property to fall into a condition that contains dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

20. Permitting or allowing a property owner's or leaseholder's trees, hedges, billboards, fences or other obstructions which prevent others from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a legal speed to a full stop before the intersection is reached;

21. Keeping or harboring any poisonous or harmful substance which is reasonably accessible to persons or to animals;

22. Permitting or allowing a property owner's or leaseholder's building or unit within a building to be used for the purpose of unlawfully manufacturing, delivering, selling, storing or giving away any controlled substance as defined in Q.T.C. Title 12 or as thereafter amended, and every building or unit within a building wherein or upon which such acts take place.

18.02.020

Duty of Occupants and Owners

It is the duty of the occupant and owner of property wherein or whereon any Litter Nuisance exists to abate the nuisance by removing, disposing, cleaning, or otherwise ridding the property of such litter nuisance which otherwise constitutes a menace to the public peace and morals.

**18.03 Noise Control-Noise Nuisance**

**18.03.010 Noise Nuisances Unlawful**

It is unlawful, and hereby declared a public nuisance, to permit, create, cause or allow any act or omission constituting a noise nuisance. The following conditions are hereby declared Noise Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. During the hours of 9:00 p.m. (PST) and 6:00 a.m. (PST), to permit, create, cause or allow sound which can be heard at a distance of fifty (50) feet from the source where the sound emanates.

**18.03.020 Exceptions**

The following noises shall not be deemed Noise Nuisances:

1. Sounds originating from a source that received prior written permission by the Quinault Indian Nation or are sanctioned by the Business Committee;
2. Sounds originating from public utility personnel or equipment or public safety personnel or equipment;
3. Sounds originating from a source which sounds are temporary in nature and are not repeated within a one-hour period;
4. Sounds originating from the performance of emergency work;
5. Sounds originating from personnel or equipment which are engaged in commonly accepted agricultural, forestry, manufacturing, processing, or assembly practices;
6. Sounds originating from electrical substations and existing, stationary equipment used in the conveyance of water by a utility;
7. Sounds originating from the normal operation of motor vehicles upon a public right-of-way.
8. Sounds originating by warning devices not operating continuously for more than five (5) minutes, or bells, chimes, and carillons; or
9. Sounds originating from natural phenomena and unamplified human voices.

18.03.030

**Duty of Occupants and Owners**

**It is the duty of the occupant and owner of property wherein or whereon any Noise Nuisance exists to abate the nuisance by halting, stopping, quieting, or otherwise ridding the property of such noise nuisance which otherwise constitutes a menace to the public peace and morals.**

**18.04 Weeds and Vegetation- Natural Hazard Nuisance**

**18.04.010 Natural Hazard Nuisances Unlawful.**

It is unlawful, and hereby declared a public nuisance, for any person to permit, maintain, cause, or allow an act or omission constituting a Natural Hazard Nuisance. The following conditions are hereby declared Natural Hazard Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. Failing to destroy, remove or trim vegetation or parts thereof on the property, and which are also overhanging any public place at a distance of less than eight (8) feet measured vertically from any point in or on an abutting sidewalk next to a property owner's or leaseholder's home;
2. Failing to destroy, remove or trim vegetation or any parts thereof on the property or on adjacent planting strips, which encroaches on or overhangs the traveled portion of the street or alley within sixteen and one-half (16.5) feet measured vertically from any point on the street or alley that abuts a property owner's or leaseholder's home;
3. Failing to remove all grass and weeds attaining a height of six (6) inches, except on property zoned agricultural, and all shrubs, bushes, trees or vegetation growing or which have grown and died which are a fire hazard or are infested with caterpillars or other horticultural pests, or which otherwise constitute a menace to the public health, safety or welfare;
4. Allowing, permitting, causing, or keeping any other vegetation constituting a fire hazard after receiving notice that such vegetation creates a fire hazard;
5. Allowing, permitting, causing, or keeping any other vegetation constituting a health hazard after receiving notice that such vegetation creates a health hazard; and/or
6. Allowing, permitting, causing, or keeping any other vegetation constituting a safety hazard after receiving notice that such vegetation creates a safety hazard.

**18.04.020 Exemptions.**

Areas protected by Tribal or Federal law; or areas protected by resolution of the Business Committee are exempt from the application of this Title.

**18.04.030 Duties of occupants and owners.**

It is the duty of the owner of property and of any occupant of the property wherein or whereon any Natural Hazard Nuisance exists to abate the nuisance by

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destroying, removing or trimming vegetation, removing or destroying any health, safety or fire hazard or by otherwise eradicating the Natural Hazard Nuisance.

18.04.040 Invasive and Noxious Weed Control Assistance

Any person residing upon or owning property within the exterior boundaries of the Quinault Indian Reservation wherein a natural hazard nuisance exists which is caused by an invasive or noxious weed and/or vegetation shall contact the Quinault Department of Natural Resources for eradication of said nuisance when the nuisance cannot reasonably be contained or eradicated by a homeowner or occupant.

**18.05 Graffiti Control-Graffiti Nuisances**

**18.05.010 Graffiti Nuisances Unlawful.**

It is unlawful, and hereby declared a public nuisance, for any person to permit, maintain, cause, or allow a Graffiti Nuisance. The following conditions are hereby declared Graffiti Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. To place graffiti or other writing upon any publicly or privately owned permanent structure located on publicly or privately owned real or personal property within the exterior boundaries of the Quinault Indian Reservation.

2. To own or otherwise have control of any real or personal property within the exterior boundaries of the Quinault Indian Reservation and to permit or allow any graffiti to be placed upon or remain on any permanent structure located on such property when the graffiti is visible from the street or other public or private property.

**18.05.020 Duties of Occupants and Owners**

It is the duty of the owner and occupant of property wherein or whereon any Graffiti Nuisance exists to abate the nuisance by removing, cleaning, painting, or otherwise ridding the property of such graffiti nuisance which otherwise constitutes a menace to the public peace and morals.

**18.05.030 Defense**

An occupant or owner shall be relieved of the duty in 18.05.020 if the owner or occupier has abated such Graffiti Nuisance three (3) times in the past twelve (12) months. No owner or occupant shall be liable or sanctioned for such Graffiti Nuisances if within the same time period.

**18.06 Rodent Control – Rodent Nuisance**

**18.06.010 Rodent Nuisances Unlawful.**

It is unlawful, and hereby declared a public nuisance, for any person to permit, maintain, cause, or allow an act or omission constituting a Rodent Nuisance. The following conditions are hereby declared Rodent Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. For the owner or occupant of any premises to fail to reconstruct or repair such premises, including residences, for the purpose of preventing rats, mice or other rodents from gaining entrance thereto after receiving a Notice of Voluntary Correction pertaining to the presence of rats, mice, or other rodents on or in the premises or residence.

2. For the owner or occupant of any premises to fail to apply such reasonable measures for the eradication of rats, mice, or other rodents on or in the premises, after receiving Notice of Voluntary Correction pertaining to the existence of rats, mice, or other rodents on or in the premises.

**18.06.020 Defense**

An occupant or owner shall be relieved of liability outlined in 18.06.010 if the owner or occupant has applied reasonable measures to prevent rats, mice, or other rodents from gaining entry into or on the premises and has applied reasonable measures for the eradication of rats, mice, or other rodents on or in the premises within the past twelve (12) months, and by the fault of another party, the Rodent Nuisance continues, reappears, or otherwise is maintained.



**18.07           Junk Vehicles- Junk Vehicle Nuisances**

**18.07.010       Junk Vehicle Nuisances Unlawful.**

It is unlawful, and hereby declared a Public Nuisance, for any person to permit, maintain, cause, or allow an act or omission constituting a junk vehicle nuisance. The following are hereby declared Junk Vehicle Nuisances within the exterior boundaries of the Quinault Indian Reservation:

1. to store, deposit, cause or permit to be stored or deposited an abandoned, wrecked, dismantled, or inoperative vehicle or an automobile hulk or parts thereof upon any private property within the exterior boundaries of the Quinault Indian Reservation, except when the vehicle or part thereof is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or when the vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed dealer or

2. to store, deposit, cause or permit to be stored or deposited a junk vehicle as defined by QTC 18.01.030.

**18.07.020       Duties of Owners and Occupants.**

It is the duty of the owner and occupant of property wherein or whereon any Junk Vehicle Nuisance exists to abate the nuisance by removing or otherwise causing such vehicle to no longer be a "junk vehicle" or, if the vehicle was abandoned by another party, to contact the Police Department and report an abandoned vehicle.

**18.07.030       Defense**

An occupant or owner shall be relieved of the duty in 18.07.020 if the owner or occupant is not the legal or registered owner of the vehicle constituting the Junk Vehicle Nuisance and the owner or occupant has contacted the police department and reported an abandoned vehicle within the preceding sixty (60) days.

**18.08            Dangerous and Nuisance Buildings**

**18.08.010       Dangerous and Nuisance Buildings Unlawful**

It is unlawful, and hereby declared a Public Nuisance, for any person to permit, maintain, cause, or allow an act or omission constituting a dangerous or nuisance building. The following are hereby declared Dangerous or Nuisance Buildings within the exterior boundaries of the Quinault Indian Reservation:

1. a building, structure, or dwelling unit, or any portion thereof, that has been damaged by fire, natural processes (wind, flood, earthquake) or other cause so the structural stability is less than minimum requirements of the Building Code requirements applicable in the Nation's titles or regulations, as determined by the Nation's Building Inspector.
2. a building, structure, or dwelling unit that does not have a sewage disposal system approved by the Nation or potable water supply, or that is not meeting the Nation's sewage requirements as determined by the Sanitation Officer.
3. a building, structure, or dwelling unit that is determined by the Fire Marshal to be a fire hazard.
4. a building, structure, or dwelling unit that is abandoned, unsanitary, unfit for human habitation or in such a condition as to make it immediately dangerous to life, limb, property or safety of the public or its occupants, or is an attractive nuisance.

**18.08.020       Duty of Occupants and Owners**

It is the duty of the occupant and owner of property on the Reservation to maintain property and premises in a manner consistent with the provisions of this Title.

**18.09           Pollution Nuisance**

**18.09.010    Pollution Unlawful**

It is unlawful, and hereby declared a public nuisance, for any person to permit, maintain, cause, or allow an act or omission constituting a Pollution Nuisance. The following conditions are hereby declared Pollution Nuisances when committed within the exterior boundaries of the Quinault Indian Reservation:

1. To emit or to allow the emission or escape of smoke, soot, noxious acids, fumes, dust, or particulate matter within the Quinault Indian Reservation in such quantities as to annoy, discomfort, injure or inconvenience the health of any person, or threaten or cause substantial injury to property, but excluding smoke emanating from residential fireplaces, smokehouses, or other permitted facilities;
2. To alter or allow the alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters, or such discharge into any surface or underground body of water as will, or is likely to, render such waters harmful; detrimental or injurious to: (1) the public health, safety, or welfare; (2) domestic, commercial industrial, recreational, aesthetic, ceremonial, or other legitimate purposes; and/or (3) livestock, domestic animals, wild animals, birds, fish, wetland plant species, or other aquatic life and
3. To discharge waste, rubbish, sewage, garbage, trash, or other harmful or unsightly substances into any waters, including surface water or ground water, or onto any lands.

**18.10           Violations, Penalties, and Enforcement**

**18.10.010       General Authority to Enforce.**

It shall be the duty of the Department of Public Safety to enforce this Title. The Public Safety Administrator ("Administrator") may call upon the fire, health or other appropriate Quinault Indian Nation personnel or members of the Department of Public Safety to assist in enforcement. The Administrator shall adopt such rules or regulations as are necessary for the administration of this Title.

Failure to enforce this Title does not authorize or waive any violation or any provision of this Title or any regulation adopted pursuant to this Title. The Quinault Nation Department of Resource Protection, the Sanitation Officer and the Quinault Building Inspector shall have specific authority to enforce provisions of this Title.

**18.10.020       Right of Entry**

1. Upon presentation of the proper credentials, the Administrator or any other authorized enforcement officer or employee or agent of the Nation, with the consent of the occupant, or with the consent of the owner of any unoccupied building, structure, property or portion thereof, or pursuant to a lawfully issued warrant, may enter at all reasonable times and in a reasonable manner, any building, structure, property or portion thereof to inspect the same whenever necessary to make an inspection to enforce or determine compliance with the provisions of this Title over which the Department has enforcement responsibility or has cause to believe that a violation of any provision of this Title is being committed.

2. If the building, structure, property or portion thereof is unoccupied, the enforcement officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and request entry. If the enforcement officer is unable to locate the owner or such other persons and has reason to believe that conditions therein create an immediate and irreparable health hazard, then the enforcement officer shall make entry.

**18.10.030       Notice of Voluntary Correction**

Whenever an enforcement officer has reason to believe that a violation of this Title or regulations adopted pursuant to this Title has occurred, the enforcement officer may serve a written Notice of Voluntary Correction on the violator in the manner directed in this Section. In the event that the violator is unable, unwilling, or does not otherwise take corrective action as outlined in the Notice of Voluntary Correction, the enforcement officer shall issue a Notice of Violation.

**18.10.040      Contents of Notice of Voluntary Correction**

Unless provided otherwise by this Title, whenever the enforcement officer has reason to believe that a public nuisance has occurred, the enforcement officer may serve a written Notice of Voluntary Correction and order directed to the alleged violator in the manner directed in QTC 18.09.050.

The notice shall contain a brief and concise description of the alleged violation or alleged public nuisance, the provision of this Title alleged to have been violated, and the condition(s) relied upon creating a public nuisance. The Notice of Voluntary Correction shall state that continued or subsequent violation may result in further civil enforcement actions, as provided in this Title, to include monetary civil penalties. The order shall contain a statement of the corrective action required and shall specify a reasonable date and time within which the action must be accomplished.

**18.10.050      Service of Notice of Voluntary Correction**

The Notice shall be personally served on the alleged violator, if reasonably possible. If personal service is not reasonably possible, the notice shall be posted on the property where the alleged public nuisance exists and mailed by certified mail, postage prepaid, return receipt requested, to the person at his last known address or at the following place(s), whichever is most likely to inform the alleged violator of the Notice:

1. In the event the public nuisance is located on private property, to the last known landowner(s) or leaseholder of record with the Quinault Indian Nation, the Bureau of Indian Affairs, or the County Assessor;
2. In the event the public nuisance is a vehicle, to the last known registered and legal owner(s) of record of a vehicle;
3. If the enforcement officer witnesses or contacts the alleged violator of a public nuisance, to the alleged violator's address certification if different from above. The failure of any such person to receive actual notice of the Notice of Voluntary Correction shall not affect the validity of any proceedings taken under this Title. If the enforcement officer believes that the requirements of this Section are not being met, the enforcement officer may, in addition to the Notice of Voluntary Correction, seek a Stop Work Order from the Administrator.

**18.10.060      Exceptions**

1. The Administrator shall have the authority to grant an exception where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this Title might result from the strict application of its provisions.
2. The alleged violator or his or her agent may make application to the Administrator for an exception on forms provided by the Administrator.

### 3. Conditions for granting Exceptions.

Before an Exception may be granted, it shall be shown and the Administrator shall find:

- a. The Exception shall not constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the subject property is located;
- b. That such Exception is necessary, because of special circumstances relative to size, topography, location or surroundings of the subject property to provide it with the rights and privileges enjoyed by other property owners in the vicinity and in the zone in which the property is located; and
- c. That the granting of the Exception will not be materially detrimental to the comfort, repose, health or safety of the public.

18.10.070

#### Extension for Compliance

1. Upon good cause shown by the alleged violator, the Administrator shall have the power to grant an extension from the operation of this Title in order to allow the alleged violator to take corrective action as outlined in the Notice of Voluntary Correction not to exceed thirty (30) days. Such extension may be renewed for an additional like period at the discretion of the Administrator, but only if satisfactory progress toward compliance is shown.
2. Any person seeking an extension shall file an application with the Administrator on forms provided by the Administrator. Any such request for an extension must be received in the Administrator at least five (5) working days prior to the date set for compliance in the Notice of Voluntary Correction.
3. In granting or denying an extension of the date set for compliance, the Administrator shall file a written order, stating the facts and reasons leading to the decision, which is due no later than the date set for compliance in the Notice of Voluntary Correction.
4. A request for an Extension shall not in any manner preclude the alleged violator from seeking any other relief available under Tribal law.

18.10.080

#### Stop Work Order.

1. Whenever a continuing violation of this Title or any regulations adopted pursuant to this Title will: (a) materially impair the Department's ability to secure compliance; or (b) threaten the health or safety of the public; or (c) threaten or harm natural resources, the Administrator or Administrator's designee may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. The Order may be posted on the subject property or may be served in person on persons engaged in any work in violation of this Title. No

further work or activity shall proceed, unless and until authorized by the Administrator in writing or by way of a Court Order from the Quinault Tribal Court.

2. Failure to comply with a Stop Work Order shall constitute a separate violation of this Title and shall be punishable by a fine of not more than \$300.00 per day for each day the violator fails to abide by the Stop Work Order.

18.10.090 Notice of Violation

In the event that an alleged violator has failed to take corrective action according to a properly served Notice of Concern and the enforcement officer has reason to believe that a public nuisance has occurred, or when the enforcement officer believes that a violation can only be promptly and equitably corrected by an immediate Notice of Violation, the enforcement officer may issue a Notice of Violation.

18.10.100 Contents of Notice of Violation

For violations of this Title, the Notice of Violation shall contain the following information:

1. The name and address of the alleged violator;
2. The street address or a description sufficient for identification of the property where the alleged violation occurred;
3. A brief statement describing the act and/or omission alleging a violation of this Title;
4. A statement indicating that the Quinault Indian Nation may correct the violation and assess all costs and expenses of administration, removing, impounding and disposing of the property in violation of this Title or otherwise abating the nuisance against the alleged violator;
5. A statement that a monetary penalty of up to \$300.00 per day for each violation shall be assessed against the landowner and/or the vehicle's registered owner;
6. A statement that if any assessed civil penalty is not paid, the Administrator may charge the amount of the penalty as a lien against the property and as a personal obligation of any person in violation of this Title;
7. A statement regarding how the alleged violator shall respond, as outlined in 18.10.130 (2), and that such Response shall be filed with the Quinault Tribal Court and a copy served upon the Quinault Indian Nation Office of Reservation Attorney within thirty (30) calendar days of service of the Notice of Violation; and
8. A description of the available appeal process.

**18.10.110      Service of Notice of Violation**

A copy of the notice shall be served in the same manner as service of the Notice of Concern outlined in this Title.

The original Notice of Violation shall be filed with the Quinault Tribal Court Clerk and a copy shall be forwarded to the Quinault Indian Nation Office of Reservation Attorney.

The failure of any such person to receive the actual Notice of Violation shall not affect the validity of any proceedings taken under this Title.

**18.10.120      Appeal of Notice of Violation.**

The Notice of Violation may be appealed within fourteen (14) calendar days from the date of the Notice of Violation to the Quinault Tribal Court, pursuant to the provisions of Q.T.C. 30. Any per-day civil penalty shall not accrue during the pendency of such administrative appeal, unless the Quinault Tribal Court determines that the appeal is frivolous or intended solely to delay compliance. Failure to file a timely and complete appeal will constitute a waiver of all rights to an appeal of the Notice of Violation.

**18.10.130      Hearings**

1. Commencement of Proceedings. The filing of the Notice of Violation shall serve as an initial summons and complaint in Quinault Tribal Court.

2. Response. Each person issued a Notice of Violation under this Title shall return a copy of the Notice of Violation within thirty (30) calendar days to the Quinault Tribal Court. The person issued the Notice of Violation shall check either:

a. Admit the violation by checking box ☐ 1. I CHOOSE TO PAY THE MONETARY PENALTY AND HAVE ENCLOSED FULL PAYMENT.

b. Admit the violation but request a hearing before the Quinault Tribal Court to explain the circumstances by checking box ☐ 2. I REQUEST A HEARING TO EXPLAIN THE CIRCUMSTANCES. If a person requests a hearing, the Court shall issue a Notice of Hearing with a date and time certain.

c. Request a hearing before the Quinault Tribal Court to contest the violation by checking box ☐ 3. I REQUEST A HEARING TO CONTEST THIS VIOLATION NOTICE.

3.. Timeline for Hearing.      Upon the timely filing of a response, the Quinault Tribal Court shall set a hearing within ninety (90) calendar days, which may be



continued for good cause. In the event a hearing is not set within ninety (90) days, the citation shall be dismissed. A party may appear for a hearing by telephone with prior approval of the Quinault Tribal Court.

4. Conduct at the Hearing. Contested hearings shall be governed by Q.T.C. 30.

5. Order on Contested Hearing. Following the conclusion of the hearing, the Court shall issue a written decision. The decision shall state findings of fact, conclusions of law, and order. The order shall include any and all costs as deemed appropriate by the Court and as specifically authorized by this Title.

6. Appeals. Should either party be unsatisfied with the result, that party may commence an appeal with the Quinault Tribal Court of Appeals pursuant to Q.T.C. 31.

18.10.140

Penalties

The following are allowable sanctions for those found to have committed a public nuisance:

1. Recovery of costs and expenses. In any nuisance action, the Quinault Indian Nation may seek the costs and expenses of removal, disposal, stoppage, or other official efforts to discontinue any public nuisance against the violator.

2. Abatement.

a. Voluntary correction. Whenever the enforcement officer determines that an act or omission creates a public nuisance, a reasonable attempt shall be made to secure voluntary correction from the owner or occupant.

b. Removal by the Nation. Pursuant to the Court's order(s), the act or omission creating a public nuisance may be removed at the Nation's request.

3. Fines. Every person, entity, or corporation violating or failing to comply with any of the provisions of this Title shall be subject to a civil penalty, deemed to be an infraction, in the amount of no more than three hundred dollars (\$300) for each such violation. Each day the violation exists shall be considered a separate violation.

4. Class III Criminal Violation. In addition to, or as an alternative to any other penalty provided in this Title or by other law, upon a fifth separate subsequent offense by the same violator of the provisions contained in this Title within a five (5) year period of time shall also constitute a Class III criminal offense, and may be punished by the maximum penalties authorized by Q.T.C. Title 12 for a Class III offense and/or a penalty, in addition to the civil fine or penalty. In any such action, the proceedings shall be governed by QTC Title 30.

5. Injunction. In addition to, or as an alternative to, any other penalty provided in this Title or by other law, the Nation may petition the Quinault Tribal Court for an injunction of any public nuisance.

6. Other Actions. Nothing contained in this Title shall prevent the Nation from taking such other lawful action as is necessary to prevent or remedy any violation.

7. Civil Warrants Specifically Authorized. Upon application by the Quinault Indian Nation to the Quinault Tribal Court for a warrant, the Court may issue a civil search warrant. No warrant shall be issued except upon probable cause supported by oath or affirmation that a public nuisance has been committed and property used, intended for use, or which has been used in the commission of that offense will be found at the place or on the person to be searched.

18.10.150

Complaints from the Public

Whenever a violation of this Title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Department. The complaining party shall provide an address and phone number to enable the Administrator or his or her designee to contact the complaining party about the written complaint. The Department shall properly record such complaint, investigate as soon as reasonably practicable, and take any necessary action thereon as provided by this Title.

**18.11           Applicable Date/Severance/Limitations**

**18.11.010       Applicable Date**

On the date of enactment of this Title by the Quinault Indian Nation Business Committee, this Title shall apply to all activity described by this Title and all acts declared nuisances by any other Title of the Quinault Tribal Code.

**18.11.020       Severance**

If any paragraph, subparagraph, clause, sentence or phrase of this Title or rules or regulations adopted pursuant to this Title shall be declared invalid, such decision shall not affect the validity of the remaining portions of the Title, and those remaining portions shall remain in full force and effect and to this end, provisions of this Title and any rules or regulations adopted hereunder are declared severable. Any action pending at the date of enactment of this Title shall not be affected by enactment of this Title, and the action shall proceed pursuant to prior provisions of the Quinault Tribal Code or rules or regulations enacted pursuant thereto.

**18.11.030       Limitations**

Any criminal or civil action for violation of this Title under the Quinault Tribal Code or rules or regulations adopted pursuant to this Title shall be filed within one (1) year from the date of the alleged activity giving rise to the violation or discovery thereof.



# Quinault Indian Nation

POST OFFICE BOX 189 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (360) 276 - 8211

## QUINAULT BUSINESS COMMITTEE

RESOLUTION NO. 08-132-87

### TITLE 18 AMENDMENTS

WHEREAS, the Quinault Business Committee (Committee) is the governing body of the Quinault Indian Nation; and

WHEREAS, the Committee is charged under Article V of the Constitution of the Quinault Indian Nation with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation; and

WHEREAS, the Committee finds that the Quinault Indian Nation lacks adequate provisions concerning the safe and orderly habitation of the lands under the jurisdiction of the Quinault Indian Nation, and the beauty of the Quinault Indian Reservation

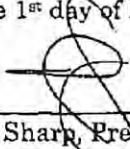
WHEREAS, the Committee believes that Title 18 should be amended to better protect the welfare and safety of the people of the Quinault Indian Nation; and

WHEREAS, the Committee finds that the Current Title 18 should be amended to reflect the Quinault Indian Nation's current goals and objectives;

WHEREAS, the Committee finds that public notice was given concerning on Title 18, and the Committee held public comment hearings in Queets, WA on May 27, 2008 Taholah, WA on December 22, 2008 and published an article in the Nugguam requesting comments

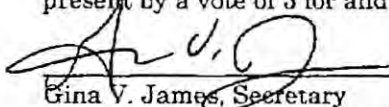
NOW, THEREFORE, BE IT RESOLVED, that Title 18 as amended is enacted into law and shall be placed in the Quinault Tribal Code; and

NOW, THEREFORE, BE IT RESOLVED, that the amended Title 18 shall take affect the 1<sup>st</sup> day of March 2009, and apply to acts, which occur on or after that date.

  
\_\_\_\_\_  
Fawn R. Sharp, President  
Quinault Indian Nation Business

### CERTIFICATION

I hereby certify that the Quinault Indian Nation Business Committee duly adopted the above resolution at a regular meeting of the Business Committee at Taholah, Washington, on the 9 day of February 2009, at which time a quorum was present by a vote of 5 for and 0 against and 1 abstaining.

  
\_\_\_\_\_  
Gina V. James, Secretary  
Quinault Indian Nation Business Committee

RESOLUTION ENACTING AMENDED TITLE 12, CHAPTER 14  
Resolution No. 08-132-87